

such obligations were created, and the fact that this is a Called Session of the Legislature which must end within a few days, creates an emergency and an imperative public necessity which requires that the constitutional rule providing that bills shall be read on three several days shall be suspended, and said rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

FIFTH DAY.

Senate Chamber,
Austin, Texas,

Thursday, September 6, 1917.

The Senate met at 9:30 o'clock a. m., pursuant to adjournment, and was called to order by President Pro Tem. Dean.

The roll was called, a quorum being present, the following Senators answering to their names:

Alderdice.	Hudspeth.
Bailey.	Johnson of Hall.
Bee.	Johnston of Harris.
Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	McCollum.
Caldwell.	McNealus.
Clark.	Page.
Collins.	Parr.
Dayton.	Robbins.
Dean.	Smith.
Decherd.	Strickland.
Floyd.	Suiter.
Harley.	Westbrook.
Henderson.	Woodward.
Hopkins.	

Absent.

Hall.

Absent—Excused.

Gibson.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Alderdice.

Bills Signed.

The Chair (President Pro Tem. Dean) signed, in the presence of the Senate, after their captions had been read, the following bills:

S. B. No. 4, An Act making appropriation of the sum of twenty-five thousand (\$25,000.00) dollars, or so much thereof as may be neces-

sary, to pay the contingent expenses of the Third Called Session of the Thirty-fifth Legislature of the State of Texas, convened August 31, 1917, by the proclamation of the Acting Governor, providing how accounts may be approved, and declaring an emergency.

S. B. No. 5, An Act appropriating the sum of sixty-five thousand (\$65,000.00) dollars, or so much thereof as may be necessary, out of the general revenue not otherwise appropriated, to pay the mileage and per diem of members and the salary and per diem of officers and employes of the Third Called Session of the Thirty-fifth Legislature of the State of Texas, providing how accounts may be approved, and declaring an emergency.

S. C. R. No. 1, Providing that the joint rules of the Second Called Session of the Thirty-fifth Legislature be adopted as the joint rules of the Third Called Session.

Petitions and Memorials.

There were none today.

Committee Reports.

See Appendix.

Bills and Resolutions.

By Senator Johnston of Harris:

S. B. No. 8, A Bill to be entitled "An Act to provide for the creation of home guards under the direction of the sheriff of the county; providing for the regulation of such home guard and granting the right to counties, cities and towns to appropriate money to provide arms and ammunition for such home guard, and declaring an emergency."

Read first time and referred to Committee on Military Affairs.

Messages from the Governor.

Here Mr. S. Raymond Brooks appeared at the bar of the Senate with several messages from the Governor.

The Chair directed the Secretary to read the messages, which were as follows:

Governor's Office.
Austin, Texas, Sept. 5, 1917.
To the Thirty-fifth Legislature in
Third Called Session:

I beg to submit for your consideration the following subject:

Enactment of an amendment to Section 37, Chapter 17, of the General and Special Laws of Texas passed by the Thirty-third Legislature in its First Called Session, being an Act creating the San Patricio County road system, so as to require the tax assessor to make up the tax rolls of said county by defined road districts, instead of by justice precincts.

Respectfully submitted,
W. P. HOBBY,
Acting Governor of Texas.

Governor's Office,
Austin, Texas, Sept. 5, 1917.
To the Thirty-fifth Legislature in
Third Called Session:

I beg to submit for the consideration of your body the following subject:

Enactment of a statute to regulate the business of emigrant agents, defining emigrant agents, and providing for licensing of any person, firm or private employment agency desiring to be licensed as an emigrant agent.

Respectfully submitted,
W. P. HOBBY,
Acting Governor of Texas.

Governor's Office,
Austin, Texas, Sept. 5, 1917.
To the Thirty-fifth Legislature in
Third Called Session:

I beg to submit for the consideration of your body the following subject:

Enactment of a law to provide for the creation of home guards, under the direction of the sheriff of the county, without cost to the State, and when a state of war exists between the United States and another nation; providing for the regulation of such home guard, and granting the right to counties, cities and towns to appropriate money to provide arms and ammunition for such home guard, and providing an emergency.

I am in receipt of petitions and requests from citizens of various portions of Texas, particularly in the County of Harris, setting forth the necessity for such organizations, to

the end that while the country is engaged in war, there may be additional safeguards for the protection of the lives and properties of the citizens, and for the better maintenance of peace and order throughout the State.

Respectfully submitted,
W. P. HOBBY,
Acting Governor of Texas.

Governor's Office,
Austin, Texas, Sept. 5, 1917.
To the Thirty-fifth Legislature in
Third Called Session:

I beg to submit for your consideration the following subject.

Amendment of Chapter 181, General Laws, enacted at the Regular Session of the Thirty-fifth Legislature, establishing "Standard containers" and "standard packs" and "grades" for fruits and vegetables, to regulate shipment of and marketing of "culls."

Respectfully submitted,
W. P. HOBBY,
Acting Governor of Texas.

Morning call concluded.

At Ease.

At 9:40 o'clock a. m. Senator Bailey moved that the Senate stand at ease until 10 o'clock this morning.

The motion prevailed.

In the Senate.

The Senate was called to order by President Pro Tem. Dean.

The Senate as Court of Impeachment.

The Chair announced that the hour, 10 o'clock a. m., to which the Court had recessed had now arrived, and directed the Sergeant-at-Arms to announce that the Court is now open for the continuation of the trial of Governor James E. Ferguson.

PROCEEDINGS.

Thursday, September 6, 1917.

Morning Session.

Senate Chamber, Austin, Texas.

(Pursuant to adjournment, the Senate sitting as a High Court of

Impeachment convened at 10:00 o'clock a. m.)

Honorable W. L. Dean, President Pro Tempore, presiding.

(The Board of Managers and their counsel were present. The Respondent and his counsel were present.)

The Chair: The hour having arrived for the convening of the Court, the Sergeant-at-Arms will see that none are seated within the bar except those entitled to seats there, and give notice of the convening of the Court.

Sergeant-at-Arms: Oyez! Oyez! Oyez! the Senate sitting as a Court of Impeachment is now in session.

The Chair: The Senate sitting as a Court of Impeachment is now in session.

Mr. Manager Bryan: Mr. President.

The Chair: Mr. Manager Bryan.

Mr. Manager Bryan: General Crane was called to the telephone, and asks your indulgence for a moment or two.

The Chair: The indulgence of the Court for a few minutes is requested on account of the fact that General Crane has been called to the telephone. I will state to counsel that a number of witnesses are outside—

Mr. Harris (Interrupting.): Yes, it would be well to have them sworn now.

The Chair: A number of witnesses who have not been sworn are outside, and we might swear those witnesses while we are waiting on General Crane.

(Thereupon, several witnesses were brought in by the Sergeant-at-Arms and presented at the bar.)

The Chair: Give your names, gentlemen, to the Secretary.

Senator Bee: Mr. President.

The Chair: The Senator from Bexar.

Senator Bee: While we are waiting I wanted to suggest that we might temporarily arise as a Court of Impeachment for a message from the Governor, the Messenger is waiting at the door, I thought we might rise as a Court of Impeachment temporarily.

The Chair: We have some witnesses here right now whom we might swear, then we can do that.

Senator Bee: Very well.

The Chair (to the witnesses): Come up and give your names, gentlemen.

(Thereupon, the witnesses addressed presented themselves to the Secretary and gave their names as follows, to wit:)

F. M. Armstrong; P. L. Downs; E. W. Moore; T. H. Heard; W. H. Brents; J. W. Butler.

The Chair (to the witnesses): You, and each of you, do solemnly swear that the evidence that you shall give on this hearing by the Senate sitting as a Court of Impeachment, in the impeachment of James E. Ferguson, Governor, shall be the truth, the whole truth, and nothing but the truth, so help you God?

Gentlemen, the rule is invoked in this case. You are, therefore, not to sit or remain in the hearing of any other witness testifying, and not talk to any one or permit any one to talk to you about what your evidence will be in this case, except counsel. Counsel for either side shall have permission to talk to you, provided they talk to you alone, and not in the presence or hearing of any other witness. You will retire now until called. The Sergeant-at-Arms will furnish you a place to rest.

Senator Page: Mr. President.

The Chair: The Senator from Bastrop.

Senator Page: In the absence of the Senator from Bexar, I move that the Court rise temporarily in order to receive a message from the Governor.

The Chair: The Senator from Bastrop moves that the Court rise temporarily in order to receive a message from the Governor. Those in favor of the motion say "Aye," those opposed, "No." The motion prevails, and the Court rises accordingly. The Senate is called to order.

(The Senate hereupon proceeded to the transaction of the business in hand. The message from the Governor is shown prior to today's proceedings. And thereafter the Chair stated:)

The Chair: It might be more in order to have a motion now to resolve ourselves into a Court of Impeachment.

Senator McNealus: Mr. President.

Senator Bailey: Mr. President.

The Chair: The Senator from Dallas.

Senator McNealus: I move that

the Senate now resolve itself into a High Court of Impeachment.

The Chair: The Senator from Dallas moves that the Senate now resolve itself into a High Court of Impeachment. Those in favor of the motion, let it be known by saying "Aye," those opposed, "No." The motion prevails, and accordingly, gentlemen, the Senate is now in session as a High Court of Impeachment. Are counsel ready to proceed?

General Crane: Yes. Call Mr. Downs, Mr. Sergeant-at-Arms, please—he is just outside of the door there.

Thereupon, the Proponents called,

P. L. DOWNS,

who had been previously sworn by the Chair, under the rule, and who now in answer to questions propounded, testified as follows, to wit:

Direct Examination
By General Crane.

Q. You have not been sworn, Mr. Downs, I believe, have you?

A. Yes, sir.

Q. Have you been sworn?

A. Yes, sir.

Q. Your name is P. L. Downs?

A. Yes, sir, P. L. Downs.

Q. You are Vice President of the First National Bank of Temple?

A. Active Vice President.

Q. Active Vice President? You have been such Active Vice President for probably how long?

A. Probably fifteen or twenty years.

Q. You were then Active Vice President of that bank on August 23, 1915?

A. Yes, sir.

Q. Did you about that time, or immediately previous thereto, have any obligations of James E. Ferguson for collection?

A. Had three notes.

Q. Three?

A. Three notes.

Q. Three notes? In what amounts?

A. \$5,000 each.

Q. For what were they given, what consideration?

A. \$15,000.

Q. What was the transaction on which they were based?

A. Why, we owed the—the Bastrop Coal Company owed us \$15,000, and he took up the amount.

Q. He took up the amount?

A. Yes, sir.

Q. Gave his personal notes for it?

A. Yes, sir.

Q. Did you sell the stock in the coal mine or simply the debt?

A. Simply the debt.

Q. Yes. Well, now, was there any part of that indebtedness paid you on or about the 23d day of August by him, or some one for him?

A. Why, one of the notes of \$5,000, and the interest.

Q. Interest on any—?

A. Interest on whatever notes had matured up to that time.

Q. What was the actual amount of the payment made to you?

A. On—in 1915?

Q. Yes, sir?

A. I think it was \$5,600—(referring to papers)—I have the credit tickets here.

Q. Yes, sir?

A. In 1914,—\$5,000 principal and \$600 interest.

Q. On what date was that paid to you?

A. Our deposit ticket shows the 8-20.

Q. 8-20?

A. Yes, sir.

Q. That is, the 20th—8-20th, or 8-21st?

A. 8-20th. Now, the possibility is that that may have been on Saturday, and Sunday being a holiday,—

Q. Well, to refresh your memory, didn't you state on your previous examination that it was the 21st of August?

A. 21st, yes.

Q. Sir?

A. It went on our books; frequently these things do not come on until after banking hours, you know.

Q. Yes, sir?

A. And then are credited on the next day.

Q. Well, are they credited on your books on the 21st?

A. This shows a credit on the 20th.

Q. On the 20th?

A. Yes, sir.

Q. Well, as a matter of fact—

A. But probably did not go on the books until the 21st.

Q. Yes, sir. Well, as a matter of fact, the 20th was Friday, the 20th of August of that year, wasn't it, the 21st was Saturday?

A. Well, I don't remember about that.

Q. You don't know about that?

A. No, sir.

Q. Well, we will have to refer to

the calendar. Did you have any other transaction of that kind with him about that date?

A. I don't suppose so, I don't remember.

Q. How was that \$5,600 paid, Mr. Downs?

A. Paid by the Temple State Bank.

Q. By the Temple State Bank? Did the Temple State Bank pay any other amount for James E. Ferguson to you at or about that time, or similar amounts?

A. Not that I know of.

Q. Yes, sir. Well, you would have likely known if it had paid you \$5,600, wouldn't you, Mr. Downs?

A. Why, I think so.

Q. Yes, sir. How did you happen to have that paid—that debt of James E. Ferguson, by the Temple State Bank?

A. Why, they requested us to put it in the clearings.

Q. Who requested you?

A. The Temple State Bank.

Q. Made the request of you to put that in the clearings?

A. Yes, sir.

Q. Yes. That is all.

Cross Examination
By Mr. Hanger.

Q. Mr. Downs, that request came from Mr. Hughes of the Temple State Bank, then?

A. I don't remember, I don't know about whether it came from Mr. Hughes or some officer or employe of the Temple State Bank.

Q. Yes. At any rate—

A. Our collector handles those altogether, our clearing man.

Q. Yes? Whether the request came to you or not, you do not know, I presume, to put that in the clearing, but it was done?

A. My recollection is it was done in each case.

Q. Yes?

A. Each one of the \$5,000 notes.

Q. I was just coming to that—?

A. Yes.

Q. When each one of those notes fell due, you were requested by the bank to put it in the clearings?

A. Yes, sir.

Q. The note in each instance, and the interest due up to that time? Now, there were three of those notes; the first was paid off in 1914?

A. My recollection is 1914, 1915, 1916.

Q. Yes, sir. So, that in 1916—1915,

there was one of the notes due and the interest at six per cent on that note that was then due, as well as the note which was due one year afterwards?

A. One year notes, yes, sir.

Q. \$300 on each one of the notes?

A. Yes, sir.

Q. Making \$600 interest and \$5,000?

A. Yes, sir, \$5,000 principal and \$600 interest.

Q. Yes, sir, \$600 a year? In 1914, it was handled through the clearing, in 1915 it was handled through the clearing, and in 1916 it was handled through the clearing?

A. Yes, sir.

Q. There were three unsecured notes?

A. Yes, sir.

Q. Executed by Governor Ferguson?

A. Yes, sir.

Q. To you?

A. Yes, sir.

Q. Or to your bank?

A. Yes, sir.

Q. That is all.

General Crane: That will do.

The Chair: Stand aside, Mr. Downs.

(Witness excused.)

The Chair: Do you excuse Mr. Downs from further attendance upon the Court?

Mr. Hanger: We are willing.

General Crane: I beg your pardon, I didn't hear you?

The Chair: Will Mr. Downs be excused, will he be excused now?

General Crane: Yes, sir.

The Chair: From further attendance upon the Court?

General Crane: Yes, sir.

Thereupon the Board of Managers called

W. R. BRENTS,

who, having been previously sworn and placed under the rule, testified as follows:

Direct Examination

By Mr. Harris.

Q. Have you been sworn?

A. Yes, sir.

Q. State your name.

A. W. R. Brents.

Q. Where do you live, Mr. Brents?

A. At Sherman.

Q. What is your business?

A. President of the Commercial National Bank.

The Chair: A little louder, please.

Q. A little louder—speak louder, please. How long have you held such position?

A. About sixteen years, since the organization of the bank.

Q. Are you a Regent of the University of Texas?

A. Yes, sir.

Q. When were you appointed?

A. In December, last year; December 1st.

Q. It has been said that before your appointment that you had made the statement that you had read all the investigation before the Board of Regents, taken down on October 10th and 11th—

Senator Hanger: We object to that form of question. There is nothing of that sort, as we remember it.

Q. Well, I will ask you this, had you read any of the investigation held before the Board of Regents on October 10th and 11th; on December 1st—

A. No, sir.

Q. When you were appointed?

A. Not a line.

Q. Why hadn't you?

Senator Hanger; We think that is immaterial.

Mr. Harris: We think it is not immaterial, Your Honor. We expect to prove that it had not been printed at that time and he had not read the proceedings. He read it when it was printed in book form, and it had not been received or printed—

Senator Hanger: We do not understand that that is any part of this investigation at this time, or forms any basis of any charge, or has any relevancy or materiality to any charge preferred here or any of the articles of impeachment.

Mr. Harris: I think it has. When some telegrams are read afterwards I think its relevancy will be shown.

The Chair: Why is it relevant?

Mr. Harris: Why? The Governor wired him, if Your Honor please, afterwards, that he had made a promise that he would co-operate with him in University matters, and that telegram we expect to offer in evidence; and in justice to the witness, he ought to be allowed to state the facts as he understands them.

The question is asked more in

justice to the witness than anything else.

The Chair: All right; go ahead.

A. I understand the testimony had not been printed—at least, I did not receive a copy—

Q. Speak a little louder.

A. Or at least I did not receive the bulletin in which the testimony was printed, until about the 20th of December.

Q. About the 20th of December?

A. Yes, sir.

Q. Did you solicit that position?

A. I most positively did not.

Q. When did you first learn that you were being considered, or that anybody was urging you for that position?

A. Some time in October.

Q. From what source did you learn it?

A. I read a letter that Colonel Stowe had from Dr. Vinson.

Q. In response to a letter that Mr. Stowe had written to Dr. Vinson?

A. As I understood it, yes, sir.

Q. Yes, sir. When you learned of that, did that have reference to your possible appointment as a Regent?

A. I thought so.

Q. When you learned of that, did you take any steps in the matter?

A. I wrote to Dr. Vinson and asked him—

Q. Is that a carbon copy of the letter? (Counsel hands letter to witness.)

A. Yes, sir.

Senator Hanger: Let's see it. (Mr. Harris hands letter to Senator Hanger.)

Q. By the way, have you a certificate from the Board of Regents—from the secretary of the Board of Regents as to when that investigation was printed?

A. A letter, yes, sir.

Q. Is that the certificate or the letter? (Counsel hands letter to witness.)

A. That is it.

Q. When does the certificate show it to have been printed?

A. I believe it is the fifteenth.

Q. Of December?

A. Yes, sir.

Q. You were appointed on the first?

A. On the first, yes, sir.

Q. That is sufficiently definite. I think that is the date.

Mr. Harris (to Senator Hanger): Senator, are you through—have you any objection to the letter?

Senator Hanger: We don't think it is material, Mr. Chairman; hasn't anything to do with this inquiry at all.

Mr. Harris: Your Honor, I will state this frankly—

A Voice: Speak louder, please.

Mr. Harris: Yes, sir. I will state this frankly; I don't think at this time it has any direct bearing, but the statement was published broadcast over the State during the House investigation that this gentleman had not only sought the position, but had made certain promises to get it. Now I produce a letter that he writes to Dr. Vinson after he had learned that his friend, Mr. Stowe, had written to Dr. Vinson about the possibility of his being appointed Regent, which shows that he did not seek it, but on the contrary, was asking his friends not to seek the place for him. I do this, I say frankly, more in justice to the witness than I do to present a relevant or a material fact here. Of course, I would frankly admit that the fact that he did not seek this place probably would not be material or relevant, whether he did or did not, on these charges, except for the fact that the Governor had sent him a telegram, which we will afterwards offer, in which the Governor makes the statement that he had promised co-operation. But in justice to this witness, he is put in the light before the people of Texas of doing two things—first, in soliciting a place of high honor as a Regent, and again in making a promise in connection with it; and I want to prove that he did not do either; and this letter, written fifteen days before he was appointed, I think is evidence bearing the witness out that he did not seek it.

Senator Hanger: We think—

Mr. Harris: Yes, as General Crane says, we expect to show that the Governor tried to control the Regents and that he tried to control this Regent upon the hypothesis that he had pledged himself.

Senator Hanger: We think it immaterial for any purpose whatever, this letter; it is a self-serving statement, if it could be anything; and that it is not in any way a material matter for this Court to determine

these matters, which counsel says are matters of justice to the witness, if an injustice has been done.

The Chair: The objection is still made?

Senator Hanger: Yes, sir.

The Chair: The Chair will sustain the objection, because in the opinion of the Chair this witness is not on trial.

Mr. Harris: Yes, sir, but then we are going to insist that after we introduce the telegram then it would be admissible in evidence.

The Chair: Well, it will be considered at that time.

Q. You were appointed, and confirmed by the Senate here?

A. Yes, sir.

Q. And you have been a Regent ever since?

A. Yes, sir.

Q. At the time of your appointment or just before it or just after it, did the Governor have any conversation with you about Dr. Vinson or make any statement to you about him?

A. On the same day I was appointed.

Q. On the same day, you were appointed?

A. Yes, sir.

Q. What did he ask you?

A. We discussed matters in general for a few minutes, and then he referred to the University.

The Chair: A little louder, please.

Q. A little louder.

A. And to certain practices out there, for instance, the purchase of mileage books and members of the faculty being absent on full pay—something like that; and I told him what I thought of Dr. Vinson, told him that he was a Sherman man and a friend of mine, that I had great confidence in his ability; and he then produced a copy of the Texan in which some statement had been printed, and referred to the fact that Dr. Vinson had said or had promised that he would have that statement corrected, and he said that he had not done so; and he asked me if I thought that he had enough backbone for a position of such responsibility.

Q. Was that before or after he tendered you the appointment?

A. He tendered me the appointment about the time I left his office.

Q. I see.

A. He just stated—he said, "Mr. Brents, I intend to give out your appointment today."

Q. I see. Did you tell him what you thought of Dr. Vinson's backbone?

A. Yes, I told him I thought he had plenty and that he would develop rapidly into a very strong man.

Q. Did you receive a telegram from the Governor in the spring of 1917, I believe, asking you to meet him in Austin?

A. Yes, in May.

Q. In May?

A. Yes, sir, about the 25th.

Q. Prior to that telegram did he ever talk to you about assisting in dismissing any professors out there, or the President?

A. No, sir.

Q. Up to that time?

A. No, sir.

Q. Upon the receipt of that telegram, did you go to the Governor's office, as he requested?

A. Yes, sir.

Q. Is this a copy of the telegram? (Counsel hands telegram to witness.)

A. That is the original.

Q. That is the original?

A. Yes, sir.

Senator Bailey: Mr. President. Will the witness speak a little louder?

The Chair: The witness will speak a little louder.

Mr. Harris: Speak a little louder, Mr. Brents.

The Witness: All right.

Mr. Harris: We introduce a telegram from the Governor to the witness, dated May 25th. (Thereupon, Mr. Harris read as follows):

"W. R. Brents,

"I am asking the members of the Board of Regents—

Senator Hanger: The gentleman says read the year.

Mr. Harris: Oh, yes, 1917. (Continues reading): "I am asking the members of the Board of Regents to meet with me next Monday, the 28th, at my office, for the purpose of considering a matter very important to the State University. I trust you can come."

Senator Hudspeth: What is the date of the telegram?

Mr. Harris: May 25, 1917.

Senator Hanger: May, 25, 1917.

Q. You attended that meeting, Mr. Brents?

A. Yes, sir.

Q. What did the Governor do and say at that time?

A. The Governor stated that he had called us together for the pur-

pose of discussing with us the affairs of the University.

Q. Speak just as loud as you can, please.

A. He stated that he had prepared a letter which he would read to us, and that he certainly would not turn the appropriation over to "that crowd out there," and he said "under any circumstances some of those items covered by the appropriation must be eliminated."

Q. Did you ask him a question at that juncture?

Q. I asked him would he mind telling the Board what particular items he had in mind, and my recollection is that he made no response.

Q. No response to that?

A. No, sir.

Q. As he read the letter would he make any comments or statements as he went along?

A. Yes, sir; he made a statement before he read the letter, and then he would read a paragraph, and then he would make other statements.

Q. Other statements. How far did he read on the letter before the students' parade appeared?

A. I think down to and maybe including paragraph six.

Q. Paragraph six. When did you read or have read to you the balance of the letter?

A. It was read at Galveston in my room at the Galvez Hotel, after the meeting of the Board of Regents—read by Mr. Allen.

Q. The students' parade happened at that time, did it not?

A. Yes—on the 28th.

Q. On the 28th—at the point where the Governor had read down to the sixth paragraph?

A. Yes, sir.

Q. Did the meeting adjourn then or continue?

A. Well, we—I don't know that we formally adjourned, but we just dispersed with the understanding that we would meet at the Regents Room at the University in the afternoon.

Q. For what purpose?

A. For the purpose of ascertaining, if we possibly could, what members of the faculty were concerned in the parade.

Q. What did you learn?

A. We learned from Dr. Vinson that he had knowledge of the fact that the classes had been—some of

the classes at least had been dismissed in order that the students could attend a mass meeting. Some members of the faculty stated that they heard something about the parade but each and every one absolutely denied that they had participated in or had had anything whatever to do with the formation of the parade.

Q. I see. During the meeting that morning did the Governor or not make a statement about wanting Dr. Vinson or any of the professors dismissed at that time?

A. He stated that he did not think Dr. Vinson was a suitable man for such a responsible position; he didn't think he was—

Q. Did he made any statement with reference to the rest of them—I am talking about the morning of the parade, at the Regents' Meeting?

A. My recollection is he had not gotten to the other members of the faculty at that time.

Q. At that time he had made a statement that Dr. Vinson was not a suitable man?

A. Yes, sir.

Q. When and where did you next see the Governor

A. On the evening of the 28th at the Driskill Hotel in this city.

Q. By whose appointment and at whose request?

A. Well, I don't know; I went to the hotel to register off, for the reason that I was going to Galveston that night, and the Governor was in the lobby and he stated that he would like to have a talk with me.

Q. I see. You and Mr. Cook were together at the time he made that statement?

A. Yes, sir, Mr. Cook and I were in a box party at the Majestic and he went with me to the hotel in order that I could register off.

Q. I see. Well, did you have that conversation with him?

A. With the Governor?

Q. Yes, sir.

A. Yes, sir.

Q. Now, just what did he say and what did you say—just in your own way.

A. The Governor asked what we were able to find out at the Regents' Meeting, and I told him that we had not been able to learn anything, that we had interrogated members of the faculty, and I stated that Dr. Vinson

had said that he had knowledge of the fact that the classes had been suspended while the students attended a mass meeting, and I also stated that some of the members of the faculty explained that they knew of the parade, but none of them had anything to do with the formation of it or had participated in it in any way. He then asked me how about the students. I told him that we were not concerned as to the students, for the reason that we did not think that they were responsible; we were only looking after those higher up. And he stated that they were, generally speaking, men and women and ought to know better, and he thought that we ought to have had some of the students before the Board. I told him that I did not think so.

Q. Go ahead with the conversation just as it developed.

A. He then stated that he was unwilling to turn the appropriation over to the mob out there, and said that certain members of the faculty absolutely must go, giving me the names of Lomax, Cofer, and Butte, and Mather, Ellis—

Q. Did he give you Mayes' name?

A. Yes, sir, and Mayes.

Q. Did he or not give you Dr. Vinson's name at that time?

A. Yes, and also stated that Dr. Vinson must go along with the balance. He also stated that the disturbers at Galveston must go.

Q. Did he name them?

A. He did not mention the names but referred to them as "the disturbers at Galveston." I—

Q. Go ahead with the conversation.

A. I told him that I regretted very much that he felt that way about Dr. Vinson, and reminded him of the conversation that I had with him in his office with reference to Dr. Vinson, and begged him to give the Board an opportunity and assured him that we would very carefully go into all of the matters complained of; and asked him if he didn't think that he could take his chances with his own appointees. He replied that he did not need advice, and that he was able to take care of himself. I told him I did not doubt that, and after I had begged for time he insisted that I tell him what I proposed to do.

Q. You mean you begged for time to investigate the matter?

A. I asked him to give the members of the Board an opportunity to adjust these matters, and not to press me for an expression of an opinion; I was going to Galveston to attend a meeting of the Board.

Q. Did you tell him whether or not you would make inquiry and study the situation there?

A. I told him that I certainly would do that, and he said absolutely they had to go and he wanted to know what I intended to do about it; I told him that if I must tell him I would say most emphatically that I would not vote for the removal of Dr. Vinson; and that I must reserve an opinion as to "the disturbers at Galveston," or, in other words, I didn't know what I would do until I knew more of the facts, and that the same would apply to members of the faculty of the University proper.

Q. What reply did he make to that statement, if you recall it?

A. He said that he regretted very much that I felt that way, and that he had hoped that I would vote "with us."

Q. Used the expression "with us"?

A. Yes, sir.

Q. Now, during that conversation did he make any statement with reference to his attitude toward the appropriation bill?

A. He said that he would not turn the appropriation bill—turn the appropriation over to that mob out there, and that unless these objectionable parties were removed he would positively veto it.

Q. In other words, he made the condition of his approval or disapproval of that bill contingent—

Senator Hanger: Don't lead him; don't lead him.

Q. —upon your action with reference to these professors and Dr. Vinson?

A. Very positive about it.

Q. Did you then proceed to the meeting at Galveston?

A. Yes, sir.

Q. The Governor knew there was going to be a meeting at Galveston at the time he was talking to you?

A. Yes, sir.

Q. It had been previously called?

A. I told him I was going to Galveston to attend a meeting.

Q. I see. A meeting of the Board of Regents?

A. Yes, sir.

Q. You did attend that meeting?

A. Yes, sir.

Q. From the time you talked to the Governor and told him about your attitude, had you ever talked to Mr. Stowe about your attitude?

A. I talked to Mr. Stowe at Galveston.

Q. I mean at the time—before you talked to the Governor on the night of the 29th—I believe it was the 28th?

A. The night of the 28th.

Q. Until you met Mr. Stowe at Galveston, had you ever talked to him?

A. Oh, I think I had discussed with him University matters, but not the removal—

Q. You had not talked about your attitude on the removal of those professors?

A. No, sir.

Q. Had you talked to him about your conversation with the Governor?

A. No, sir.

Q. What position did Mr. Stowe hold?

A. Superintendent of Public Buildings and Grounds.

Q. Did he come down to that Galveston meeting?

A. He was at Galveston—he was not at the meeting.

Q. He was at Galveston?

A. Yes, sir.

Q. Did he make any request of you there?

A. Yes, he stated that he had had a talk with the Governor, and that he had concluded to come to Galveston as my friend and urge me to resign as a member of the Board.

Q. Did he have your resignation, written out?

A. He did, yes, sir, he had it written out.

Q. In his handwriting?

A. Yes, sir.

Q. And he told you that he had previously had a conversation with the Governor?

A. Talked with the Governor.

Q. Did you sign the resignation—Before we get to that, what question did you ask him and what reply did he make?

Q. I asked him if the Governor had sent him to Galveston to see me, and he told me that he had not, and

my recollection is that he also told me that the Governor didn't know he had made the trip to Galveston, that he had given it out that he was going to the San Jacinto Battlefield.

Q. Did you ask him whether or not he had made any pledges to the Governor with reference to your attitude towards the Regents?

A. I did; while I had the telegram in my hand I reminded him—

Senator Hanger: I object to the conversation between Mr. Brents and Mr. Stowe.

The Chair: The objection is sustained.

Mr. Harris: I first want to develop it.

Q. Did you receive a telegram from the Governor while you were at the Galveston meeting?

A. Yes, sir.

Q. Is this a copy of the telegram? (Counsel hands telegram to the witness.)

A. Yes, sir.

Mr. Harris: We now offer that telegram, if Your Honor please.

A. And this is my reply. (Referring to telegram attached to the one just mentioned.)

Q. And this is your reply?

A. Yes, sir, that is a copy of my reply.

(Thereupon Mr. Harris read the telegram from Governor James E. Ferguson to Mr. W. R. Brents, above referred to, which is in words and figures as follows):

"Austin, Texas, May 31st, 1917.

"Honorable W. R. Brents, Regent State University, Care Gálvez Hotel, Galveston, Texas.

"I am disappointed beyond expression to learn that you are taking a stand against the seating of one of my appointees. Certainly I am entitled to better treatment than this. If you want to vote for Vinson and his student mob that is your privilege, but you certainly have no right to go further and vote against the seating of one of my appointees. I don't care what any lawyer says about my authority to remove, for the Supreme Court of Texas has many times upheld the power of the Governor to remove, even without stating his cause. Your friends assured me that if I appointed you that I could depend upon your full co-operation. You also assured me of the same fact. I am relying on your

word; I trust that you will not further disappoint me."

Mr. Harris: We now introduce the reply of Mr. Brents.

(Thereupon Mr. Harris read the telegram from Mr. W. R. Brents to Governor Ferguson, above referred to, which is in words and figures as follows):

"Honorable Jas. E. Ferguson, Governor of Texas, Austin, Texas.

Mr. Harris: I omitted the date—Galveston, Texas, June 1, 1917.

Senator Hanger: What is the date of the other one?

Mr. Harris: The other is May 31st; this is the next day—the reply.

(Mr. Harris continues reading telegram): "Your wire received. I regret exceedingly that any conscientious action of mine based upon the facts which are before me could be a disappointment to you or could be construed by you as evidence of loss of my friendship and support. My friends in Grayson County will bear witness and testify to my continued loyalty to you through two campaigns, and my loyalty to you is still firm. As a Regent of the University I know of no better means of showing my loyalty to you than by conscientiously endeavoring to make the University a success and by voting upon every measure affecting its interests according to my best judgment of all the facts before me. (Signed) W. R. Brents."

Q. What vote was he complaining of or what attitude with reference to seating a Regent?

A. The seating of Dr. Tucker to succeed Dr. Jones.

Q. In other words, Dr. Jones had been removed by the Governor—

A. Yes, sir, by proclamation.

Q. —and Dr. Tucker appointed?

A. Yes, sir.

Q. What was your belief and your attitude in the premises?

A. I didn't think that the Governor had a right to remove Dr. Jones, and I voted against the seating of Dr. Tucker.

Q. Were you advised—did you consult any lawyers about that, whether or not he had a right to dismiss him without a hearing and without cause?

A. It was discussed by members of the Board.

Q. Did you consult any lawyer,

or not, before you took that attitude?

A. I did not.

Q. You did not?

A. No, sir.

Q. I see. Did any other members of the Board consult any, or do you know?

A. I think they did.

Q. Did you get a report?

A. I think a report was made. My mind is not right clear on that.

Q. I see. Now, it was after you received this telegram—you had it in your hand when Mr. Stowe presented to you that resignation written out, I believe?

A. No, no. No, Mr. Stowe was in Galveston the morning of the 30th.

Q. The morning of the 30th. Well, I misunderstood you.

A. Yes.

Q. Did you make any request—ask him whether or not—was he the only friend, so far as you know, that had spoken to the Governor in your behalf?

A. Our Vice-President, Mr. Hare, told me that he had written the Governor.

Q. Those were the only two?

A. Yes, in so far as I know; I have heard that others did, but—

Q. Did you ask him whether or not he had given any assurance to the Governor as to your co-operation?

A. He said he did not.

Q. He said he did not?

A. Yes, sir.

Q. When he made that statement you declined to sign—

General Crane: Mr. President, I have a long distance call I will—

Senator Hanger: We will wait.

The Chair: General Crane asks the indulgence of the Court for a few moments while he answers a long distance call. The request will be granted if no objection is made.

(Thereupon, the Court stood at ease for a few moments during the time General Crane left the Chamber to answer the telephone call.)

The Chair: The Court will come to order.

Q. Now, at this time, Your Honor, please, we wish to offer again the letter of Dr. Vinson, and I wish to call Your Honor's attention here to the Governor's telegram: "Your friends assured me if I appointed you I could depend upon your full co-operation. You also assured me of the same fact. I am relying upon

your word and trust you will not disappoint me." Now, the Governor having made the assertion in a telegram, and we having introduced it as a declaration, first we will say as simple justice to the witness, he should be permitted to deny the truth of the fact. We offer the letter written fifteen days before his appointment, in which he asks a friend not to present his name for the position.

The Witness: It was forty-five days before.

Mr. Harris: Forty-five days before. We think it is admissible relating to the subject of the Governor's efforts to force the man—for instance, if the Governor will appoint this man without any assurance, and afterwards have the Governor put words into this man's mouth that he had given promises that he had never given, it was another evidence of the manner he used to control and coerce the Board of Regents. Now, if Your Honor were to come to me and say, if you give me your word to do certain things, Mr. Harris, and I am relying upon your good word, when in fact I had given you no such word, would that not be direct evidence of improper methods of control? I submit it would.

The Chair: Mr. Harris, evidence has been offered here—is offered that Mr. Brents had made statements, made a statement rather, I might put the matter in that form, prior to the purported contents of this letter, the letter might be offered in support of his present testimony; unless he is undertaken to be contradicted on this trial by statements prior to his evidence here, the opinion of the Chair is the letter is not admissible.

Mr. Hanger: If we had tried to.

The Chair: Yes, to impeach the witness.

Mr. Harris: Well, we will withhold it for the present.

Q. I believe you stated, Mr. Brents, that you made no promise with reference to your conduct and attitude on the Board of Regents?

A. No, sir, I did not.

Q. Gave no assurances?

A. None whatever.

Q. You didn't seek the place?

A. I did not,

Q. Was any friend of yours au-

thorized by you to seek the place for you?

A. Absolutely not.

Q. Was any friend of yours authorized by you to make any promises for you with reference to your action as a member of the Board of Regents?

A. Absolutely to make no promises. Of course, I knew that Col. Stowe had written the Governor, at least he told me he had, as the Colonel seemed to be enthusiastic over the matter and appeared to think I would make a good member of the Board of Regents. I told him that if I should be tendered the appointment I would consider the matter.

Cross Examination
By Mr. Hanger.

Q. Mr. Brents, when you went on the Board of Regents, you went on feeling and understanding, after talking with the Governor, that you were perfectly free to do that which was for the best interests of the University?

A. Yes, sir.

The Chair: Mr. Hanger, I have a question here that a Senator desires to be asked. If you will permit I will read it now, as it may be a matter about which you desire to interrogate the witness. Senator Dayton propounds this question: "Did you state to the Governor that you had known Dr. Vinson a long time and you thought that he was entirely competent to handle the University situation in every particular, and also that Dr. Vinson was worthy of handling the University funds, or words to that effect?"

A. Substantially that.

By Mr. Hanger:

Q. And told him that before you were appointed, didn't you?

A. Yes, sir.

Q. He understood your attitude with reference to Dr. Vinson?

A. I endeavored to make my position clear.

Q. I see, but you told him?

A. Yes, sir.

Q. About your long acquaintance with Dr. Vinson?

A. Yes, sir.

Q. His attitude, as expressed to you, Mr. Brents, was, wasn't it, that all that he wanted was that improper practices out there cease and that the University be handled for the

best business, and in an appropriate way?

A. That was made clear by him.

Q. Yes, sir, in his conversation with you about his interest in the University situation, in its handling, was that he was only trying to do that which was best for the University?

A. He impressed me with the idea.

Q. And that he wanted a Board of Regents who were prompted and impelled by the same motives?

A. That's what the Governor said.

Q. That's what he said to you at the time?

A. I don't remember just exactly what he said, but that is the substance of it.

Q. Well, in substance?

A. That is the substance of it, yes sir.

Q. In those remarks between you and him before the appointment, he made all of that manifest to you and you made plain to him your belief in Dr. Vinson?

A. Yes, sir.

Q. You had so said, by him to you and by you to him, and as you started to leave and as you shook hands with him telling him goodbye, he said: "I intend to announce your appointment today"?

A. That is right.

Q. Now, just a few other questions: When was that—you referred to Silas Hare, of course?

A. Yes, sir.

Q. One of the officers of your bank?

A. Vice President.

Q. One of the Vice Presidents of your banks? When was it he told you he had written to the Governor?

A. I think it was in October.

Q. Now, when was it you were appointed?

A. December 1.

Q. December 1, 1916?

A. 1916.

Q. He didn't show you the letter, of course?

A. No, sir.

Q. Had he understood from a source other than you, had he not, that some effort was being made by your friends to recommend you to the Governor as a possible man?

A. I think so.

Q. To be appointed on the Board of Regents? What I mean to say,

you didn't tell him, but some other friend of yours had acquainted him, Silas Hare, with the idea or with the fact, I mean, that recommendations were being sent to the Governor about your fitness for the place?

A. Mr. Hare and I were talking at the time Colonel Stowe walked in and handed me the letter which he had received from Dr. Vinson and Colonel Stowe also mentioned the matter to Mr. Hare.

Q. And did Mr. Hare state he had written a letter, or would write one?

A. Mr. Hare, my recollection is that he immediately dictated a letter to the stenographer. He thought my appointment would be a good one.

Q. Yes, I was trying to get at the time, was all I was after in that. Now, down here that day, the 28th day of May, you were holding a meeting in the private office of the Governor downstairs here?

A. Yes, sir.

Q. The Governor was reading you gentlemen a letter expressive of his attitude with reference to the University?

A. Yes, sir.

Q. While reading that letter a very large concourse of students appeared at the window of that office?

A. Yes.

Q. About how many were there?

A. I have really no idea.

Q. Well, that's all right, a very large number?

A. Quite a number, yes, sir.

Q. Could you estimate, a thousand, fifteen hundred or two thousand?

A. Well, it would be the wildest kind of a guess.

Q. Well, that's all right, you needn't attempt that. They had a brass band attending?

A. I think they had music.

Q. And banners?

A. I understand they did; as a matter of fact I didn't see the parade.

Q. I beg your pardon, I thought you saw the parade and banners but didn't see what was on them?

A. No, I really didn't see them.

Q. That is all right, Mr. Brents, I misunderstood you. You adjourned that meeting. The noise and confusion broke up that meeting, didn't it?

A. Well, I will say it did.

Q. Do you know how the students knew that the Board of Regents

meeting was then in progress in the Governor's office?

A. No, sir, I do not.

Q. You don't know how they got acquainted with that fact? So on account of the noise the meeting of the Board of Regents was broken up and you all agreed to meet at the Regent's room at the University—that was the usual meeting place, wasn't it?

A. Yes, sir.

Q. It wasn't usual to meet, say, in the Governor's office, so far as you know?

A. No, sir, it was not.

Q. To meet out there that afternoon to see if you could find out and fix responsibility for this students' parade?

A. Yes, sir.

Q. You met there, and Dr. Vinson came before you and you inquired all about the parade, did you?

A. Yes, sir.

Q. What other members of the faculty appeared before you?

A. As I remember, Judge Townes and several others whose names I do not remember.

Q. Would you say how many there were?

A. I would say seven or eight.

Q. Some of them said they knew the parade was in contemplation, didn't they?

A. Something like that.

Q. Did you inquire of them from whom they learned it?

A. No, sir. That is, I don't remember.

Q. Well, you don't remember if you inquired of those professors or faculty who admitted knowledge?

A. We may have done that, because we undertook to find out if the members of the faculty had participated in the parade.

Q. Well, let's see what your best recollection is then. There were some members of the faculty, you don't remember which ones, I believe you say they admitted knowledge of the fact that the parade was in contemplation, that afternoon when the investigation was made?

A. I think some of them admitted it, yes.

Q. Now, do you remember whether or not you pursued that investigation along that line so as to ask them who it was that told them, or the source of their information?

A. I have forgotten just what occurred.

Q. Well, you have forgotten about that?

A. Yes, sir.

Q. Well, if you did inquire of them the source of their knowledge, did you have them summoned before you, such students as had acquainted the faculty with the intention?

A. No, sir, no students, and the question was referred to at one time and I stated emphatically we were not after the students, that we were after those higher up.

Q. Yes, but what I was getting at, Mr. Brents, was whether or not you inquired of any students the fact that they had prior to the parade acquainted the members of the faculty with this information, this intention that they had in mind of having this parade, and just how far the discussion went between the members of the faculty and the students before the parade?

A. We had none of the students before us at all.

Q. You did not pursue your inquiry along that line any further than you have indicated?

A. No, sir.

Q. How long did this investigation last, Mr. Brents?

A. Possibly an hour or an hour and a half, that is, we discussed other matters after we had gotten off the investigation.

Q. Well, the meeting then lasted an hour or an hour and a half?

A. Yes, sir.

Q. How long would you say the investigation itself of the parade, lasted?

A. Probably, oh, thirty or forty minutes, possibly longer.

Q. Now, that night you came into a hotel, about what time was it when you came in and saw the Governor?

A. About eight thirty.

Q. Was the box party over at that time?

A. No, sir.

Q. Was that before the box party?

A. Well, I think the curtain had just gone up.

Q. Well, where was it you saw the Governor?

A. At the Driskill Hotel. I left the box party and went to the hotel to register off.

Q. Oh, yes, yes. I didn't catch it awhile ago. You saw him at the Driskill?

A. Yes, sir.

Q. He wasn't at the box party?

A. Oh, no.

Q. The other members of the Board of Regents, were they waiting, or any members of the faculty, awaiting you at the Majestic Theater?

A. No members of the faculty, members of the Board were in the box.

Q. Now, you went down to Galveston that night, getting to Galveston the morning of the 29th?

A. That is correct.

Q. You didn't see Mr. Stowe until the 30th?

A. The night of the 29th.

Q. The night of the 29th?

A. Yes, sir.

Q. You saw him there in Galveston the night of the 29th?

A. He passed through the lobby of the Galvez Hotel.

Q. He expressly stated to you, did he not, Mr. Brents, that he had known you twenty-five or thirty years, he was your friend and considered you his friend and he wanted to get you out of a row?

A. That is what he said.

Q. He stated that he didn't come from the Governor, that he didn't bear any message from the Governor, and that it was wholly on his own initiative?

A. He assured me most positively that that was the case.

Re-direct Examination By Mr. Harris.

Q. You left here on the night of the 28th?

A. Yes, sir.

Q. Arrived in Galveston the morning of the 29th?

A. The morning of the 29th.

Q. Mr. Stowe arrived there on the morning of the 29th?

A. No, Mr. Stowe arrived there on the evening of the 29th.

Q. To have arrived there that day, what train would he had to have left on?

A. I don't know.

Q. He did tell you then before coming he had a talk with the Governor?

A. Yes, sir.

Q. He didn't say what the Governor had said, though, in the talk?

A. No, he did not.

Q. Senator asked you about some of the professors and said they knew that the parade was in contemplation. Didn't they state they heard it, and saw it, and therefore knew it was in progress rather than in contemplation, carried with it the deed—

Mr. Hanger: We think he ought not to lead the witness about a matter of that sort, particularly when it is explained.

The Chair: Don't lead him.

A. We talked with the members of the faculty, one at a time and inquired as to whether or not they knew of the parade, and whether they had assisted in its formation.

Q. Did they tell you about whether they assisted in its formation or not?

A. Oh, they denied most positively they had anything whatever to do with the formation of it.

Q. When did they tell you they first learned of it?

A. My recollection is that one member of the faculty said he had heard the music and I think another one said he saw the banners going across the campus, but they most positively stated, each and every one of them, that they had no connection with the parade whatever.

Q. Did any member of the faculty state to you that he knew there was going to be a parade before he saw the parade or heard the music?

A. No, sir.

Q. Mr. Brents I would like to keep this letter of Dr. Vinson's and certificate of Mr. Matthews, if you will permit me.

Mr. Hanger: There are a few questions, you understand, that are admissible at this time. We will have to call him later.

The Chair: Gentlemen, I have a question handed up by a Senator. I will read it to you, Mr. Brents, and you will answer it: "Mr. Brents stated that the letter of the Governor was read down to paragraph 6 on the morning of the 28th and that the remainder was read in his room at Galveston. What, if anything, was in said letter relative to the removal of members of the faculty and what became of the letter?" (Lattimore.)

The Witness: The letter was read

by Mr. Allen and I suppose he has it. He was chairman of the Board.

Mr. Hanger: We can, excuse me, pardon me, Mr. Chairman, that was the same letter that was referred to, embraced in the veto message.

The Witness: The same one, yes, sir.

(Witness excused.)

Mr. Hanger: It is agreed that the Faber letter need not be proved up and may be read from the record as introduced heretofore.

Mr. Harris: If the Reading Clerk will read these letters it will be more satisfactory.

General Crane: Let me read them, Will. I will play Reading Clerk. We offer first a letter from Governor Ferguson to Dr. M. Faber, one of the Regents at Tyler, Texas, dated September 11, 1916. (Reads.)

"Austin, September 11, 1916.

"Dr. M. Faber, Tyler, Texas.

"Dear Doctor: It appears from recent developments that certain members of the Board of Regents are conspiring with certain members of the faculty, including the President of the University, to perpetuate certain members of the faculty who, in my opinion, contrary to every principle of right and decency. It is quite apparent that the issue is going to be decidedly drawn. I am, therefore, writing you to say that unless I may be assured of your full and complete co-operation, I will much appreciate your sending me at once your resignation as a member of the Board of Regents under my appointment. You can rest assured that I have nothing against you personally, but the time has come when I must know who is for me and who is against me. Yours truly, Jas. E. Ferguson, Governor."

General Crane: Then we next offer the reply thereto by Regent Faber. (Reads):

"Tyler, Texas, Sept. 20, 1916.

"Governor James E. Ferguson, Austin, Texas.

"My Dear Governor: When, at the solicitations of my friends, you saw fit to confer upon me the distinction and honor of appointing me one of the Regents of the University of Texas, I took the oath of office to serve the State, in that capacity, to the best of my ability and according to the dictates of my own conscience. I never dreamed that

such an appointment has any political significance; nor that the appointee is expected to be a mere marionette to move and act as and when the Chief Executive pushes the button or pulls the string. I was of the opinion that in the selection of men who are to serve the State without remuneration, you were moved by the single purpose of securing men who are the best fitted to render good service to our commonwealth without fear and dread of any influence, no matter whence emanating, nor with any hope of fee or reward except the consciousness of service faithfully performed for the common welfare. It naturally flattered my vanity to be considered worthy of such a trust and, in all due modesty, may say, I have faithfully discharged the duties devolved upon me to the very best of my poor ability.

"I am not aware of any (development that certain members of the Board of Regents are conspiring with certain members of the faculty,) and while I hold no brief to defend them, I must say, as far as I know, such an accusation is without foundation. They are men of integrity, highest moral character, who have earned their golden spurs in the arena of public service and in the republic of letters.

"I cannot give you the assurance of my 'full and complete co-operation' with your avowed plans concerning the internal affairs of the University of Texas without a thorough investigation into the merits of each individual case. I cannot pledge myself to follow the arbitrary will of any person, no matter how high and exalted, without being convinced of the justice of his demands. In my humble opinion, such action would disorganize and disrupt the University, the just pride of the people of Texas. It will produce untold harm to the cause of higher education and practically destroy the labors of a generation to bring up the University of Texas to the high rank it now occupies among the universities of the land. With all due respect to you, my dear Governor, I do not concede to you the right or authority to interfere in the internal management of the University of Texas: that is the sole business of the Board of Regents, and for that purpose they are created.

I would by far rather return to my honorable obscurity than to stand in the limelight of public glamour purchased at the cost of manhood and conscience.

"Were I governed by my own inclination, I would cheerfully return to you my commission, but, as I believe I have faithfully discharged the duties of the office, and in all due modesty may say the University needs my services under the existing circumstances, I respectfully decline to concede to your wishes.

"Very obediently yours,

"M. Faber."

General Crane: Now, the reply to that we also offer, of date September 25, 1916, of the Governor to Mr. Faber—(Reads):

"Austin, Texas, Sept. 25, 1916.

"Mr. M. Faber, Tyler, Texas.

"Dear Sir: Your letter of September 20 is received.

"Your statements contain quite a different story from the recommendation of your friend, the late John Durst, who assured me that if I would appoint you that your loyalty could always be depended upon to make my administration a success.

"I took it for granted that you had informed yourself of all issues that had arisen between myself and the members of the faculty and that you knew what was going on. If you have not so informed yourself, then you ought to be willing to resign because of neglect of duty. If you have investigated, you must know that the present faculty and certain members of the Board of Regents have not kept faith with the Governor or the Legislature of the State; that they have made false representations to the Legislature, upon which appropriations were obtained, but which were diverted to other purposes not disclosed to the Legislature; that representations were made that certain professors were desired, and upon which appropriations were made to pay their salaries when in fact no such professors ever existed or were intended to exist; that certain professors have, contrary to law, written books and sold them to boys and girls, which they bought at exorbitant prices; that downright corruption exists in the traveling expense accounts of certain professors; that extravagance

exists to a marked degree, and that I approved the appropriation bill for the State University upon the express assurance that a great many of these matters would be rectified.

"I do not care to bandy words with you further, but simply to put you on notice of these facts, and if you continue to align yourself with the crowd who want to perpetuate this policy, I shall not hesitate to repair the wrong which I have done in appointing you, so far as I am able to do under the powers given me under the Constitution of removal of appointees. If you want to force me to remove you, you can rest assured that I shall not shirk the task.

"Your statement about the political significance of your appointment is an outrageous insult. When you continue on a board of an institution which permits its professors to go down to a ward convention and join with those who opposed the endorsement of my administration, after it has stood the criticism of having given the University the biggest appropriation in its history, it certainly bears the mark of little consistency for you to talk about politics.

"You are defying your friends and proving yourself culpably disloyal by aligning yourself with a political ring in the University who, if permitted to continue, will cause the people sooner or later to rise up and disown the whole affair.

"Your bold statement that the Governor of the State has no right or authority to interfere or inquire into the management of the University proves conclusively the arrogance which has attained to a marked degree in the institution, and shows how far the idea has gained credence that the people are to have nothing to do with this institution except shoulder and pay high appropriations to be turned over to a set of men to continue their unholy spree of establishing an educational hierarchy.

"Yours truly,

Jas. E. Ferguson,

"Governor."

General Crane: We now offer the other letter, containing Dr. Faber's resignation. (Reads):

"Austin, Texas, October 3, 1916.

"Hon. James E. Ferguson, Governor of Texas, Austin, Texas:

"Dear Sir: In reply to your com-

munications of the 25th ult., will at this time say only, I most emphatically deny charges of disloyalty to your administration or yourself, and that you either misread or misinterpreted my letter."

General Crane: I stated that that was his resignation. I was mistaken in that. The resignation was later, Mr. Hanger.

Mr. Hanger: I don't know when it was. I wouldn't like to state.

General Crane: Well, I withdraw the statement that that contained the resignation, for I was mistaken.

Mr. Hanger: All right.

Mr. Harris: We next introduce in evidence this proclamation. You have no objection to that?

Mr. Hanger: No, sir.

Thereupon Mr. Harris read the following proclamation:

Executive Department,
Austin, Texas.

A Proclamation.

Whereas, In January, 1915, a vacancy occurring, I appointed S. J. Jones, of Salado, Texas, a member of the Board of Regents of the University of Texas; and,

Whereas, The said S. J. Jones, since his appointment and during his incumbency in office, has openly manifested an utter lack of harmony with the views and purposes of the present administration, and has failed to attend to the duties and requirements of his office:

Now, therefore, Under the powers vested in me by the Constitution and laws of this State, I, Jas. E. Ferguson, Governor of Texas, for the reasons herein set forth, do vacate the appointment of the said S. J. Jones, and he is hereby removed from said Board of Regents of the University of Texas.

In testimony whereof, I have hereunto signed my name and cause the Seal of the State of Texas to be hereon impressed, at the City of Austin, Texas, this the 29th day of May, A. D. 1917.

JAS. E. FERGUSON,
Governor of Texas.

By the Governor:

C. J. BARTLETT,
Secretary of State.

Mr. Harris: We next introduce telegrams passing between Mr. Mc-

Gregor and Mr. Kelley, and the Governor and Mr. Kelley.

Mr. Hanger: Let's see that McGregor telegram.

Mr. Harris: We next introduce telegram from Mr. T. H. McGregor to Mr. C. E. Kelley. This does not give the date, but I think the body of the telegram will indicate about the date.

The Chair: Mr. Harris, speak a little louder.

Mr. Harris: All right.

Thereupon Mr. Harris read said telegram, as follows:

"Hon. C. E. Kelley, El Paso, Texas. Be sure and be in Galveston May 21 (31) at meeting of Board of Regents. The State and your friends need you there. T. H. McGregor."

Mr. Harris: It ought to be the 31st. I think that is a mistake in the copy, General. I will find out.

Mr. Harris: Next is a telegram from Mr. Kelley to the Governor, dated May 28, 1917. (Reads):

El Paso, Texas.

"Hon. James E. Ferguson, Austin, Texas. I see by the morning papers that you and the Board of Regents have called a special meeting tomorrow, of which I have had no notice. I have one child who graduates from the grammar school on the 29th, and two from the high school on the 31st. Thinking the meeting of the 29th was of no importance, I did not intend to attend the meeting on the 29th and 30th; I received the news too late to be in Austin tomorrow. If I can be of any service to you later, wire me. C. E. Kelley."

Mr. Harris: We next introduce telegram of date May 28, 1917, addressed to Hon. C. E. Kelley, signed by James E. Ferguson. (Reads):

"Hon. C. E. Kelley, El Paso, Texas. Appreciate very much that you will be in Galveston Thursday morning. Very important University matters to come up. We need you bad and that is the reason I make the request. Wire me if you can come. Your friend, James E. Ferguson."

Mr. Harris: May 28th was the date of that telegram.

Mr. Hanger: Then that should be the 31st, Mr. Stenographer.

Mr. Harris: It shows the 31st in the original telegram.

Mr. Hanger: Well, put it in the notes here.

General Crane: Mr. Dudley, will you come around, please.

The Proponents called

R. M. DUDLEY,

who, being sworn by the Chair, as follows: "You do solemnly swear that the evidence you give upon this hearing by the Senate of Texas of impeachment charges against James E. Ferguson shall be the truth, the whole truth and nothing but the truth, so help you God," testified as follows:

Direct Examination

By General Crane,

Q. Mr. Dudley, your home is in El Paso, Texas?

A. Yes, sir.

Q. You are a member of the Legislature from that county?

A. Yes, sir.

Q. Together with Mr. Ewing Thomason?

A. Yes, sir.

Q. You were in the regular session of the Legislature, as well as the present special session

A. Yes, sir.

Q. Do you remember the occasion when the nomination of a Regent of the University from El Paso, Dr. Lawrence, was before the Senate?

A. Yes, sir.

Q. State whether or not you and Mr. Thomason and Senator Hudspeth or either of you discussed with the Governor the possibility of the failure to confirm Dr. Lawrence's appointment at any time during the time it was pending?

A. We did.

Q. Well, just give that interview, Mr. Dudley, in your own words, as nearly as you can, please.

A. Well, I had met the Governor one night at the Driskill Hotel, and he called me and asked me if I knew that he was preparing to appoint an El Paso man as a Regent of the University, and I said, "No" and he said he was going to appoint Dr. Lawrence, and asked me if I knew him, and I said I did not, that I had never heard of him, and he said he was in the electrical business, and I still didn't remember him, and he said, well, he had thought very seriously of appointing him, and for me to consult with Senator Hudspeth and Mr. Thomason and see if they knew anything about him and

to come and see him about it, which I did the next day or the following day, I don't remember which; but in the meantime the Governor nominated Mr. Lawrence for this vacancy, and the question came up about his confirmation, and I had seen Senator Hudspeth and Mr. Thomason and we discussed the matter. Senator Hudspeth did not know him. Mr. Thomason did know him slightly. When there was talk of Dr. Lawrence's not being confirmed, we went to see the Governor, I think at Senator Hudspeth's suggestion, and suggested other names to him in case Lawrence was not confirmed. We had agreed on half a dozen gentlemen that would be acceptable to us; in fact, most any reputable business man we would have been willing to endorse, because we were very proud to get a Regent for El Paso, but we wanted a representative man, and so we suggested to him—we told him we had not come to object to Dr. Lawrence, we knew nothing about him, but we wanted some man like W. W. Turney, Winchester Cooley, R. G. McNarry, or Richard Burgess—that we were simply wanting to get somebody that would be a credit to El Paso, rather than any particular man. The Governor listened to us very patiently and told us, "Gentlemen, I will lay the cards on the table before you. I am in a row" of some kind, in a difficulty "with the University out here, and I must have a man that will do what I want done—will carry out my policies." He says he said jocularly, but I suppose it was not, he said, "I do know an old Irishman out there, Henry Kelley"—referring to C. E. Kelley—"who will stand hitched and do as I want him to do." Those are as nearly as I can recollect his exact words. We did not protest against Mr. Kelley, because we were not discussing him; we were discussing the possibility of getting a man in case Dr. Lawrence was not confirmed.

Q. Dr. Lawrence was not confirmed?

A. No, sir, he was not.

Q. And Mr. Kelley was appointed in his stead?

A. Yes, sir.

General Crane: That's all.

Cross Examination
By Mr. Hanger.

Q. Was Mr. Kelley confirmed?

A. Yes, sir, I think so. He is a Regent now, I believe.

Q. Mr. Dudley, he said to you that he wanted a man who would help him carry out his policies?

A. Yes, sir.

Q. Did he say in that conversation that there were certain practices in the University—had been—that he wanted eliminated?

A. I don't remember that those were his words, but there was some difference between him and the University that he wanted changed.

Q. In regard to its financial affairs?

A. I don't remember whether he said it was financial or otherwise.

Q. I see. Did he not say in that conversation that Dr. Lawrence had been recommended very highly by Dr. Lee?

A. No, he did not; he said by Dr. Fly; he did not mention Dr. Lee.

Q. Didn't mention Dr. Lee?

A. No, sir.

Q. You said that you wanted some reputable man appointed, or would like to have. You had a branch of the University there in the School of Mines?

A. Yes, sir.

Q. You felt like El Paso had an interest in the appointment of a member of the Board of Regents because of the presence of a branch of the University there?

A. Because we felt like we were in Texas, and if we could get an honor like that—

Q. (Interrupting). You felt you had been out of the State long enough? (Laughter).

A. Yes, sir, we were inside the State of Texas.

Q. Well, now, while there had been some difference between you and Henry Kelley, you understood at the time if he appointed him he would be appointing a reputable citizen of El Paso?

A. Yes, sir.

Q. And a creditable man?

A. Not for the University.

Q. But a creditable business man?

A. Yes, sir.

Mr. Hanger: That's all.

Re-direct Examination
By General Crane.

Q. You thought he was not fit for a Regent of the University, Mr. Dudley?

A. Well, I hate to say it, but I think so.

Q. Well, it was asked you by the other side—I refrained from asking it. What had been his occupation or business there?

A. He was a wholesale druggist and had been Mayor of our town a couple of times.

Q. He was not when he was appointed, however?

A. No, sir.

Q. He had just been defeated?

A. Yes, sir.

Q. Now, had he been connected with any educational institution in any way that you knew of?

A. Not that I ever heard of. Personally, he is a friend of mine and I have great respect for him personally.

Q. Yes, sir?

A. But I did not think he was a man for the University, and don't think so now.

General Crane: That's all, Mr. Dudley.

The Chair: Any other questions? Stand aside, Mr. Dudley.

General Crane: Come around Mr. Thomason.

The Proponents called

R. E. THOMASON,

who, being sworn by the Chair, as follows: "You do solemnly swear that the evidence you give upon this hearing by the Senate of Texas of impeachment charges against James E. Ferguson shall be the truth, the whole truth and nothing but the truth, so help you God," testified as follows:

Direct Examination
By General Crane.

Q. Your name is Ewing Thomason?

A. Yes, sir.

Q. You are one of the members of the Legislature from El Paso County?

A. I am.

Q. You were here in the regular session?

A. I was.

Q. Without repeating—

A Senator: Speak louder.

A. All right.

Q. Without repeating, you heard Mr. Dudley's testimony here with reference to the interview with the Governor?

A. Yes, sir.

Q. Well, just state your recollection of it, if it is in any material way different from Mr. Dudley's?

A. Well, I don't think it differs in any material way.

Q. Well, state your recollection of it.

A. Well, after Dr. Lawrence's name had been sent up to the Senate and it had been reasonably apparent that he was not going to be confirmed, Senator Hudspeth, Mr. Dudley and I had a conversation relative to it. We were not fighting Dr. Lawrence, neither were we fighting the Governor, because we were all friendly, but we did think, if he was not going to be confirmed, we wanted an El Paso man. Dr. Lawrence had been there but a few months, and I casually knew him. While we had nothing against him, we did not regard him as an El Paso man. We discussed several men, all those mentioned by Mr. Dudley and perhaps one or two more. We agreed to let Senator Hudspeth name the man and go to the Governor with the recommendation, if the Senate did not confirm Dr. Lawrence, that he appoint this man. They were all good men. Mr. Hudspeth preferred Mr. Winchester Cooley, president of the Rio Grande Bank and Trust Company, and so we three together went to see Governor Ferguson, and after discussing the matter and telling him we didn't believe Dr. Lawrence was going to be confirmed, why, we—I am not sure whether all those names were mentioned to him or not, but I do know that Senator Hudspeth, who was doing most of the talking, said in the event Dr. Lawrence was not appointed we would like for Mr. Cooley to be appointed—

Mr. Hanger: Not appointed, but confirmed.

A. Confirmed—thank you. Governor Ferguson said, "Gentlemen, Dr. Lawrence's name is up there. I am going to let the Senate do just as it pleases. If he is not appointed"—

Q. You mean confirmed?

A. Not confirmed—"I will consider the appointment of another man."

Then he said, in a rather jocular way, he said, "If he is not, I've got an Irish friend out there by the name of Henry Kelley who will stand hitched" or "carry out my policies," or words to that effect, "and I am going to appoint him," and none of us said anything more, because we did not know at that time whether Dr. Lawrence was going to be appointed (confirmed) or not.

General Crane: That's all.

Mr. Hanger: That's all.

General Crane: You make no objection to this copy of the proclamation remitting that five thousand dollar judgment, or do you want me to bring the Secretary of State up?

Mr. Hanger: No, sir.

General Crane: We now offer, Mr. President, proclamation of the Governor remitting judgment in favor of Wilbur P. Allen and others.

Thereupon, General Crane read said proclamation, as follows:

PROCLAMATION

By the Governor of the State of Texas.

To All to Whom These Presents Shall Come:

Be It Known, That in a certain cause in the District Court of Jones County, Texas, styled the State of Texas versus Luis Rodriguez, wherein defendant was charged with murder, E. E. Wallace, R. R. Smith, Wilbur P. Allen, Jose Rodriguez and Abraham Rodriguez being sureties on the bail bond of said defendant in the sum of Five Thousand \$5,000.00 Dollars; and

Whereas, It is shown that Louis Rodriguez was told by his lawyers that it looked like he was going to be sentenced for about ten years, and he thereupon left for Mexico; and

Whereas, It is further shown that since that time Abraham Rodriguez has died, Jose Rodriguez is bankrupt, R. R. Smith is unable to pay, E. E. Wallace is unable to pay more than one-fifth of the judgment, and it will devolve upon Wilbur P. Allen to pay practically the entire amount of the judgment; and

Whereas, In a letter under date of June 6th, said Wilbur P. Allen agrees and promises and pledges his word of honor that he shall never rest until he has gotten Luis Rodriguez and brought him to trial in

Anson, Jones County, Texas; and promises to do everything in his power to get him back to this country and have him brought to a speedy trial;

Now, Therefore, I, Jas. E. Ferguson, Governor of the State of Texas, do, by virtue of the authority vested in me under the Constitution and laws of this State, hereby remit the said judgment of Five Thousand (\$5,000.00) Dollars taken in the above styled cause in so far as it applies to the sureties, R. E. Wallace, R. R. Smith, Wilbur P. Allen, Jose Rodriguez and Abraham Rodriguez.

In Testimony Whereof, I have hereunto signed my name officially and caused to be impressed hereon the seal of State, at the City of Austin, Texas, this 6th day of June, A. D. 1917.

(Signed) JAS. E. FERGUSON,
Governor of Texas.

By the Governor.

(Signed) B. A. COX, JR.,
Acting Secretary of State.

General Crane: Has Mr. Fiset answered?

Sergeant-at-Arms: No, sir, but he said he would come right away.

General Crane: Will the Chair indulge us a moment?

The Chair: Yes, sir.

The Proponents called,

FRANZ Fiset, ESQ.,

who was administered the following oath by the Chair, to wit:

"You do solemnly swear that the testimony you shall give in the hearing of the impeachment charges against James E. Ferguson, Governor, shall be the truth, the whole truth, and nothing but the truth, so help you God?"

Direct Examination
By General Crane.

Q. Your initials, Mr. Fiset?

A. Franz.

Q. Frank Fiset?

A. Franz.

Q. Franz? Now, Mr. Fiset, did you know—you know Wilbur P. Allen, do you not?

A. Yes, sir.

Q. Did you have any conversation with him on the day, or previous to the day that this judgment was remitted by the Governor?

Mr. Hanger: We object to a con-

versation with Wilbur Allen as hearsay.

General Crane: I think not, Mr. President.

Mr. Hanger: Not admissible for any purpose.

General Crane: I think the Court perhaps would like to wait until they hear the question.

The Chair: Let us hear the question.

Q. Did you answer whether you had a conversation with Wilbur Allen previous to the remission of this judgment, in reference to the fitness of Dr. Vinson for President of the University?

A. Yes, sir.

Q. Just state what that conversation was, please?

Mr. Hanger: Wait. We object to the statement, it is hearsay.

General Crane: Well, wait one moment.

Q. Then, did you have a conversation with him on the date that this proclamation was issued remitting the judgment for him of the \$5000, in reference to the fitness of Dr. Vinson for president?

A. Yes, sir.

Q. Had you two opinions expressed by—

Mr. Hanger: We object.

General Crane: Now, wait a minute, this is what I want to get.

Mr. Hanger: All right.

Q. Were the two opinions, the one given you before the remission of the fine or the judgment, and the one given you after the remission of the judgment, the same, or different?

Mr. Hanger: Now, just a minute. Mr. Fiset. We object to that, the last question calls for a conclusion, but that is not the main objection, of course. We object to it on the ground that it is hearsay, declarations of a third party, not in the presence of the Governor, not binding on him. The effort here is to show what was in the Governor's mind and the purpose he had in issuing a certain proclamation—improper purpose in his mind, it cannot be shown, we respectfully submit, Mr. President, by the declarations of some one, of a third person, without his presence, and is hearsay of the worst kind.

General Crane: Mr. President, it is not hearsay. The proposition is to show—and I am talking to a

Court now, it is not necessary to observe the same decorum, I take it, that we would with a jury. Our purpose is to show that before this fine was remitted Wilbur P. Allen thought that Dr. Vinson was a fit man for president—that is, we want to show that if we can, the witness has not answered it yet; and then we want to show that upon the remission of this judgment he concluded that Dr. Vinson was not a good man for president; and we are offering that upon the hypothesis that every man is presumed in law to intend the probable results of his own acts, and, therefore, when the Governor remitted this judgment during the time that Regent Allen was considering the qualifications of Dr. Vinson, and Allen knew that the Governor was opposed to Dr. Vinson, that the remission of that judgment had, if not its influence, at least its probable effect, in biasing and changing the attitude of Mr. Wilbur P. Allen; and that the two conversations were very close together, not very far apart.

Mr. Hanger: But there is not any evidence—we respectfully submit that does not make it admissible, and even if it did, and we do not admit that, there is not any evidence here of Mr. Allen's position or Mr. Allen's attitude, or of Mr. Allen's declarations, they are not admissible; they are trying to prove a declaration here, and what his attitude was, there is not a particle of evidence on that subject yet, and if it could be admissible, it would not be admissible until that evidence was before the Court. But in addition to that, and clearly outside of that, we renew the objection made before, that it cannot be made admissible, the declaration of a third party made without the presence of the Respondent, and it is not binding on him, cannot be made binding on him.

The Chair: The Chair overrules the objection.

Q. What was the first statement—what was the first statement made, Mr. Fiset, to you, by Mr. Allen, in respect to the fitness and qualifications of Dr. Vinson for President of the University, and state about when the statements were made?

A. The first statement I had from Mr. Allen in regard to the fitness of Dr. Vinson came to me very shortly after the first meeting of the Board

of Regents, after his confirmation; it must have been sometime in April or the early part of May. He then—

Q. 1917?

A. 1917.

Q. Yes, sir.

A. He then told me that Dr. Vinson gave the fairest promise of meeting all expectancies—the expectations that his best friends had for him when he was appointed president, he had already done things that were surprising.

Q. Now, then, when was the next conversation you had with him—or what was that?

A. The next conversation?

Q. What was the conversation you had with him?

A. The next conversation was on the 6th day of June.

Q. About what time?

A. Between 12:00 and 1:30 of that day.

Q. Then what did he say?

A. On that occasion he told me that Dr. Vinson was utterly incompetent and utterly unfit to be president of the University, he told me that he had wrecked the Presbyterian College, that he was nothing but a plain preacher, and that he otherwise showed no signs of amounting to anything.

Q. That is all.

Cross Examination
By Mr. Hanger.

Q. The first conversation was in, did you say April or May, I have forgotten?

A. April or May, I can't tell precisely.

Q. April or May

A. But it was after the first meeting of the Board of Regents, after the—

Q. Yes, sir, the last conversation was on the 6th day of June?

A. Yes, sir.

Q. That is all.

Redirect Examination
By General Crane.

Q. Mr. Fiset, I take it that the Senators all know you, but to get it into the record, be kind enough to state your occupation, how long you have lived in Austin?

A. I have lived in Austin thirty-four years. I am an attorney at law.

Q. Member of the firm of Fiset & McClendon?

A. And Shelley.

Q. And Shelley? You have been practicing law here for—

A. Twenty-two years—twenty—thirty-one years.

Q. Thirty-one years, yes, sir. That is all, sir.

Mr. Hanger: Wait just a minute. (After a moment.) That is all.

General Crane: That will do, Mr. Fiset.

Senator Hudspeth: Mr. Hanger, I want to state to the Senator from Bexar I have the permission of the Chair to ask this question without writing it—I don't write very well: What is the date of that proclamation?

Mr. Hanger: June 6th, I think—6th day of June, 1917.

The Chair: Is Mr. Fiset excused now as a witness?

Mr. Hanger: Yes, sir.

(Witness excused.)

General Crane: Now, Mr. President, the next witness we will introduce will occupy quite a while, and I think it will be better to wait until 2 o'clock to put him on.

Senator Page: Mr. President.

The Chair: The Gentleman from Bastrop.

Senator Page: Mr. President, if it is not improper, without reducing the question to writing, I would like to know what hour of the day that proclamation was issued?

Mr. Hanger: I am just looking, Senator, I couldn't find it.

General Crane: One moment, we will introduce the document.

Mr. Harris: I think in the afternoon about 6 o'clock.

General Crane: Well, we will leave that alone for the present.

The Chair: Will counsel obtain that information?

Mr. Hanger: Yes, we will find that out.

Senator Page: I move that the Court rise and recess until 2 o'clock this afternoon.

The Chair: The Senator from Bastrop moves that the Court now arise and recess until 2 o'clock this afternoon. Those in favor of the motion will say "Aye," those opposed, "No." The motion prevails, and it is so ordered.

(Thereupon the Court recessed until 2 o'clock p. m. of the same day.)

Recess.

At 11:53 o'clock a. m. Senator Clark moved that the Senate recess until 2 o'clock p. m. today.

The motion prevailed.

After Recess.

(Afternoon Session.)

The Senate was called to order by President Pro Tem. Dean.

Simple Resolution No. 11.

(By unanimous consent.)

Whereas, Hon. C. V. Terrell, a distinguished former member of this Senate is now in the city; therefore, be it

Resolved, That he be extended the privilege of the floor, and be invited to address the Senate.

HOPKINS,
COLLINS,
McNEALUS.

The resolution was read and adopted.

Simple Resolution No. 12.

(By unanimous consent.)

Be it Resolved, That Hon. C. W. Nugent, of Houston, a former distinguished member of this body, be invited to address the Senate and be accorded the privileges of the floor.

JOHNSON of Hall.

The resolution was read, adopted and ex-Senator Nugent presented to the Senate, whereupon he made a short address.

PROCEEDINGS

Thursday, September 6, 1917.

Afternoon Session.

(Pursuant to recess, the Senate, sitting as a High Court of Impeachment, reconvened at 2 o'clock p. m.)

The Chair: The Court will come to order. (To counsel): Gentlemen, are you ready to proceed?

Senator Bee: Mr. President.

The Chair: The Senator from Bexar.

Senator Bee: I suggest that the Senate stand at ease a few minutes until more Senators come in; I do not think there is a quorum here at this time. We might wait a few minutes and let them come.

The Chair: The Senator from Bexar moves that the Court stand at ease a few minutes, subject to the call of the Chair. Those in favor of the motion, let it be known by saying, "Aye," those opposed, "No." The motion prevails, and the Senate will stand at ease for a few minutes.

(The Senate, sitting as a Court of Impeachment, stood at ease for a few minutes; and on reconvening at 2:15 p. m., resumed as follows, to wit:)

The Chair: The Court will come to order.

General Crane: Mr. Cox, will you be sworn?

The Chair: Proceed, gentlemen.

Thereupon, Proponent's witness,

B. A. COX, ESQ.,

was administered the following oath by the Chair, to wit:

"You do solemnly swear that the testimony you shall give in the hearing of the impeachment charges against James E. Ferguson, Governor, before the Senate, shall be the truth, the whole truth, and nothing but the truth, so help you God?"

And in answer to questions propounded, the witness testified as follows, to wit:

Direct Examination

By General Crane.

Q. Mr. Cox, what position do you hold, and what position did you hold on the 5th of June, 1917?

A. Chief Clerk in the Department of State.

Q. Chief Clerk in the Department of State?

A. Yes, sir.

Q. What is that document you now hold in your hand?

A. It is the—

The Chair (Interrupting): Will you speak a little louder, please, sir.

A. —the original enrolled act making appropriation for the payment of the salaries of certain officers and employes of the educational institutions of this State, embracing the University appropriation bill and the proclamation of the Governor vetoing the University appropriation

bill, executed on the 2d day of June, 1917, by the Governor, filed in the office of the Secretary of State on the 5th day of June, at 8:10 p. m.

General Crane: Mr. President, it is understood that the reading of the veto message is waived, and it may be incorporated—

Mr. Hanger: It may go in the record the same as if read.

General Crane: Just the same as if read.

The Chair: The proclamation may be incorporated in the record.

General Crane: It is already in the House Journal and may be copied.

Mr. Hanger: May be copied by the stenographers.

The Chair: Any questions?

Mr. Hanger: Oh, no, sir. The witness desires to take the paper back, as it is a part of the record.

The Chair: The witness desires to take the paper back as it is a part of the record. Those in favor say "Aye," those opposed, "No." The witness may take the record back.

(Witness excused.)

Senator Bee: I wish to make a suggestion. I notice they introduced in evidence the enrolled bill for the appropriation. Now, it seems to me that it would not be proper to put that enrolled bill in the record, but they might make such reference to it as they desire that will go into the record.

Mr. Hanger: Well, that is all. (To General Crane): You do not care for the items, do you?

General Crane: No, sir, we do not care about the items.

The Chair: Well, give the instructions to the reporters as to the parts you desire.

General Crane: Yes, sir. The only fact that we want is that the appropriation for the University, with a very small exception, was vetoed on that day?

Mr. Hanger: Oh, that is understood.

General Crane: Yes, sir, that is all we want.

Mr. Hanger: My only purpose was to comply with the suggestion of Senator Bee in trying to shorten the record.

General Crane: Now, Mr. President, another thing, we ought to have the proclamation brought up here—

Mr. Hanger: It doesn't show the hour and minute of filing.

General Crane: No, the proclamation remitting the judgment of Wilbur P. Allen and others does not disclose the hour of being filed. That agreement may go into the record.

General Crane: Call Mr. Butler, Mr. Sergeant-at-Arms, please.

(Mr. J. W. Butler presented himself at the bar of the Court.)

The Chair: Have you been sworn, Mr. Butler?

Sergeant-at-Arms: Yes, he has been sworn.

Mr. Butler: Yes, sir.

Thereupon, the Proponents called,

J. W. BUTLER, ESQ.,

who had been previously sworn under the rule by the Chair, and who now, in answer to questions propounded, testified as follows:

Direct Examination
By General Crane.

Q. Mr. Butler, have you been sworn?

A. Yes, sir.

Q. Speak a little louder, now, Mr. Butler, so that the Senators all around here may hear you. Where do you live, Mr. Butler?

A. At Clifton.

Q. Bosque County, Texas?

A. Bosque County.

Q. In what business are you engaged?

A. In the banking business.

Q. Are you the J. W. Butler who was appointed by the Governor as one of the University Regents?

A. Yes, sir.

Q. Sometime early this year?

A. Yes, sir.

Q. About what date were you appointed?

A. I think my name was sent in in January and confirmed later.

Q. Confirmed a little later? Did you seek the appointment?

A. Yes, sir.

Q. For what purpose?

A. Well, my motive was to aid Dr. Vinson.

Q. He had then been chosen as President of the University?

A. Yes, sir.

Q. Did you disclose that purpose to Governor Ferguson?

A. I told him I was a friend of Dr. Vinson, after I had asked him to

favor me, I later told him I was a friend of Dr. Vinson's.

Q. Well, did you tell him that before you received your appointment?

A. Yes, sir.

Q. Well, give the—state whether or not you made any inquiries of him as to how he and Dr. Vinson were getting along before you received that appointment, personally, friendly or otherwise?

A. I asked him how they were getting along, and he stated—

Q. Can you speak just a little louder?

Senator McNealus: We cannot hear a word.

A. I asked the Governor how he and Dr. Vinson were getting along, and he stated that he and Dr. Vinson were going to get along all right.

Q. Did you have such conversation with him more than once?

A. About Dr. Vinson, yes, sir, more than once.

Q. Well, what was the—did you make any statement to him at any of those conversations that he told you they were going to get along, about your appointment?

A. Yes, sir, I expressed the wish that they might get along and co-operate.

Q. Well, did you say anything to him then as to whether or not you had any interest in getting the appointment, if they were going to be friendly?

A. No—I said to the Governor at one time that if they were going to get along, that it would—I hadn't the interest in the appointment that I otherwise had, and that it would be all right with me if he would just drop the matter of my request for an appointment, if he chose some better man.

The Chair: Mr. Butler, louder, please, sir, so we can all hear it.

A. I said since he and Dr. Vinson were going to co-operate that he wouldn't offend me if he did not appoint me, that I would take no offense if he dropped my name from consideration.

Q. Had you known Dr. Vinson long?

A. Yes, sir, many years—about fifteen years.

Q. Had you been intimately associated with him in any line of work?

A. Yes, sir, we had been together

on a board of trustees, educational work in Texas.

Q. Now, after you received your appointment, did he make any request of you in respect to Dr. Vinson, or have any communication with you later about him—the Governor, I mean?

A. No; he—

Q. Well, you afterwards—I didn't want to interrupt you, what did you want to say?

A. Other than in the meeting, he called attention to the things he wished the Board of Regents to consider.

Q. Well, what were those things he wished you to consider?

A. Well, we were to give consideration to the members of the faculty out there, among them Dr. Vinson.

Q. Well, you say give them consideration? What did he want you to do with them, if anything?

A. Well, as I understood it, it was that we were to consider the fitness of these men for their positions.

Q. That they already held?

A. Yes, sir.

Q. That when you were considering their fitness, that was in the middle of the scholastic year, wasn't it, or before the end of the scholastic year?

A. Yes, sir, that was in May.

Q. In May? Well, just state everything now, that occurred between you and Governor Ferguson touching those matters, as to what took place between you, which led to your resignation—as, I believe, you did, I believe, subsequently resign, is that not true?

A. Yes, sir.

Q. All right, just give it in a narrative way, without being questioned?

A. Well, as I say, my motive in asking the Governor to favor me was prompted by friendship for Dr. Vinson, and I felt it was my duty to inform the Governor of my friendship, to be candid, and so I did. After awhile there came—seemed to be a growing apart of the two principals.

Q. That is, of the two men?

A. Yes, sir.

Q. All right?

A. I entered upon the engagement as a friend of both men, and wishing to promote co-operation and friendship between the two, but there seemed to be influences at work that

were causing those two men to get farther apart; it finally culminated—I talked to the Governor a time or two about my wish that they might work together—it culminated on the day of the demonstration here, and it was very apparent that there was no more possibility of urging—or working with the Governor for a friendlier feeling—it looked so.

Q. Well, now, you say there was a growing apart?

A. Yes, sir.

Q. Upon—

A. Every time I would see the Governor he would say something that led me to believe he was not liking Dr. Vinson as well as the other time I talked to him.

Q. It was increasing?

A. Yes, sir.

Q. As the days go by?

A. Yes, sir.

Q. Well, now, was there any animosity expressed by Dr. Vinson, was he saying anything?

A. Well, I didn't talk to him on the subject.

Q. You did not talk to him on the subject?

A. No, sir.

Q. And he did not mention the subject to you?

A. No. Well, I was under suspense, and my name was in the Senate, being considered, and I told Dr. Vinson of my motive and my friendship, and should I be confirmed, it was my purpose to work for co-operation and a friendly feeling between him and the Governor.

Q. Well, had you known Governor Ferguson long?

A. About fifteen years.

Q. Have you been intimate with him?

A. Intimate friends, neighbors and business associates.

Q. Yes?

A. Business relations.

Q. Yes? Well, now, after the meeting, the parade of which we have heard so much, did you have any further communications with Governor Ferguson, or Governor Ferguson with you, in respect to that—to the situation?

A. Yes, sir.

Q. Well, what was it?

A. The next afternoon he called me by phone.

Q. Where were you?

A. I was at home in Clifton.

The Chair: A little louder, please, Mr. Butler.

A. I was at home in Clifton. He said that he was disappointed that he did not get to see me before I left Austin. I apologized and said to him that I was disappointed that I didn't see him, and that I went to the hotel late that night but missed him—Mr. Brents had told me that the Governor was at the hotel, and then I went immediately over to the hotel and I missed the Governor. Well, he said he would have liked to have seen me and to have talked over what we did out at the University; the Regents had had a meeting at the University that afternoon. Then he said, "Things have taken such a turn"—

Mr. Harris: A little louder.

A. "The situation is such and our views at this time not coinciding, for you to continue would be embarrassing to me." And I asked him what did he mean, and he said, "I know that you are a friend of Dr. Vinson, and that you are members of the same church, I know of your very great esteem for him, and I don't want to embarrass you, nor you to embarrass me, and I don't fall out with you, it is all right for you to be his friend—but for you to continue in this position will embarrass me." And then I said to the Governor, "Do you mean that you wish me to resign?" "Well," he said, "I didn't like to put it that bluntly, but that is—that is about what it means, if you want to just put it in plain words." "Well," I said, "if you ask me for the commission which I asked of you, why, I will return it by next mail."

Q. Well, state whether you did or not?

A. I did.

Q. Now, whom were you appointed to succeed—Dr. Faber?

A. I don't know.

Q. You do not know what vacancy—

A. No, sir.

Q. —you were appointed to fill?

A. No, sir.

Q. Now, one other question,—did Governor Ferguson make any currency deposits in your bank at any time during the months of April or May of this year?

A. I say, yes, sir—I didn't see it, but I was told so by the cashier.

Q. Well, no, no, now, just tell what you saw about it?

A. I saw the deposit slip.

Q. Yes, sir. Did you see Governor Ferguson in the bank?

A. Yes, sir.

Q. Did you see a deposit slip in his favor?

A. Yes, sir.

Q. Accompanied by currency?

A. Marked "currency."

Q. Marked "currency?"

A. Yes, sir.

Q. Handed to you by the—

A. The Cashier just showed it to me and said, "This is a nice deposit."

Q. Yes. When was that?

A. I think it was the 21st of May.

Q. Of this year?

A. Yes.

Q. Now, did you ever make any statement to Governor Ferguson or any other person to the effect that Dr. Vinson had wrecked the Presbyterian institution with which he had been so long connected?

A. I never made such a statement to anyone.

Q. You never made such a statement to anyone?

A. No, sir.

Q. Well, would it have been true, Mr. Butler, if it had been made by anyone?

Mr. Hanger: Well,—do you want to go into that question?

General Crane: I asked him that question, I asked the question.

Mr. Hanger: We do not understand that Dr. Vinson is on trial for his conduct—

General Crane: All right, I will not insist on that now.

Mr. Hanger: —in any theological school. We tried to go into that in the House and were not permitted on account of objections made.

General Crane: Well, you can go into it here, if you want to.

Mr. Hanger: You must have strengthened yourselves up some?

General Crane: We never have objected to it. If you want to show that Dr. Vinson took part in wrecking any institution, you can go into it right now, or at any time hereafter.

Mr. Hanger: Well, the record will show you did object to it.

General Crane: I do not think so, and we have the records right here. I withdraw that question.

The Chair: Do you withdraw the question?

General Crane: Yes, sir, I withdraw that question. No other questions.

Cross Examination

By Mr. Hanger.

Q. Mr. Butler—

General Crane: Yes, one other question:

Direct Examination (Resumed).

By General Crane.

Q. How much was that deposit?

A. \$7,500.

Q. \$7,500? All right, that is all.

Cross Examination (Resumed).

By Mr. Hanger.

Q. Mr. Butler, when was the occasion when you spoke to the Governor about giving you the appointment?

A. I think I wrote the Governor a letter.

Q. Oh, you did?

A. Yes, sir.

Q. When was that, do you know?

A. In the fall—last fall.

Q. Could you give about the day, could you give about the day?

A. I should say it was about October or November, probably.

Q. Well, that is near enough. Did Dr. Vinson know of your writing the letter?

A. No, sir.

Q. Afterwards, I mean?

A. Afterwards, yes, sir.

Q. You told him?

A. Yes, sir.

Q. How long after you wrote the letter did you tell him?

A. While I was in suspense.

Q. While the matter was pending, you mean, here before the Senate?

A. Yes, sir.

Q. You then saw the Doctor?

A. Yes, sir.

Q. And told him that you had written this letter?

A. Yes, sir.

Q. Now, during that time you also talked to the Governor about the situation?

A. Yes, sir.

Q. You said to the Governor that your interest in the matter—in substance you said to him that your interest in the situation was in trying to bring about a friendly rela-

tionship between him and Dr. Vinson?

A. Yes, sir.

Q. Between the Governor and the President of the University?

A. Yes, sir.

Q. You being friendly to both of them?

A. Yes, sir.

Q. The Governor expressed himself, did he not, Mr. Butler, at all times and on all occasions when you talked to him, as being moved solely by a desire to do what was for the best interest of the State University?

A. Yes, sir, on two or three occasions he says, "We are going to get along, I—"

Q. Yes, but outside of the question of personal relationship, I ask you didn't he say that he wanted to do only that which was for the best interests of the University?

A. Oh, yes.

Q. In discussing the question of the faculty, or some members of the faculty, did he not say to you that he only desired certain practices remedied in the University?

A. Yes, sir.

Q. And that those people who had been guilty of improper conduct, that he thought that they ought to be removed from their positions as teachers, because of such conduct?

A. Yes, sir.

Q. Now, he discussed in a way, did he not, the question of paying \$25 for thousand-mile tickets and charging the State up with \$30 for it?

A. Yes, sir.

Q. Which prevailed, as he stated to you, in the Extension Department?

A. Yes, sir.

Q. He said he thought that was improper, didn't he?

A. Yes, sir.

Q. That the State ought not, when they paid out \$25; the State only ought to pay \$25 back?

A. Yes, sir.

Q. He also discussed with you, did he not, the fact, or the practice, or misconduct, of what is known as the Co-Operative Society in the sale of books?

A. Yes, sir.

Q. Of books that cost some 35 cents, being sold for 75 cents to the students, he discussed that, didn't he?

A. Yes, sir.

Q. He said he thought that that was an exorbitant profit for the fathers and mothers of the school children to pay, didn't he?

A. Yes, sir.

Q. Didn't he discuss with you the fact that an amount that had been charged under the direction of Professor Mather for \$100, had been compelled by the Auditor to pay back into the University fund, and the impropriety of the charge in the first instance?

A. I have forgotten—\$100 item?

Q. Yes—well, some item, outside of the amount?

A. Yes, sir, he did.

Q. Yes. Now, there was also discussed, was there not, the question of whether or not particular professors, members of the faculty, did not, when paid an adequate salary, give their whole time to the University that employed them?

A. Yes, sir.

Q. But, contending that these gentlemen, who were paid salaries of \$3250 or \$2750, or \$2500, or whatever the amount might be, had engaged to give their whole time to the people of Texas, and to the university, and if they were not doing it, they were remiss in their duties,—isn't that right?

A. Yes, sir.

Q. Now, didn't he particularly discuss the case of Professor A. Caswell Ellis, who was largely, as he told you, engaged in the business of superintending the building of school-houses all over the State and making a large profit out of it,—he discussed that, didn't he?

A. Yes, sir.

Q. Saying that Professor Ellis was making much more, as he understood it, out of his outside work, than he was in his University professorship?

A. Yes, sir.

Q. Yes. Now, was there not also discussed by him, in discussing this University situation, the question of absentee professorships, if that is a proper term—professors who were absent on pay while off writing books?

A. Yes, sir.

Q. Or going to school elsewhere, or something of that sort?

A. Yes, sir. He mentioned to Dr. Vinson that a professor had drawn pay for two years while on leave of absence, and while on his return had ceased his connection with the University.

Q. Yes. Now, then, Mr. Butler, didn't the Governor also discuss with the Board the question of some professor who went off to deliver a lecture—about a professor who went to Fort Worth or Dallas—to Fort Worth, to deliver a lecture, and charged up expenses—Professor somebody, and assistant, changing the original charge from Professor James, I believe it was, and wife?

A. Yes, sir.

Q. Changing the account and charge on the University books from "Professor James and Wife," to "Professor James and Assistant?"

A. Yes, sir.

Q. Now, then, he also objected to Dr. Battle, because Dr. Battle had, as he was informed and as he explained to you, approved of those practices by refusing to stop them— isn't that true?

A. Yes. I think Dr. Battle was out when I came in.

Q. Oh, was he?

A. Yes, sir.

Q. Well, he did—he stated that Dr. Battle had not stopped them, that is what I mean?

A. Yes, sir.

Q. Yes.

Senator McNealus (During a pause in the questions): Mr. President, while the counsel is not asking questions, I would like to be permitted to ask the gentleman what the name of his bank is, for the benefit of the newspaper men—he did not state the name of his bank.

Q. Yes, what is that?

A. The First Guaranty State Bank.

Q. The First Guaranty State Bank of Clifton, Texas?

A. Yes, sir.

Q. Yes.

Mr. Hanger (to Senator McNealus): Thank you, Senator.

Q. Now, Mr. Butler, there has been some testimony about those whom the Governor mentioned there. I will ask you if it is not a fact that in that discussion with you personally, or with the Board of Regents, that the School of Journalism was discussed, presided over by Dr. Mayes?

A. You know that that day we met we didn't get very far until we were broken up; it was not mentioned about that.

Q. What broke you up, Mr. Butler?

A. It was that parade.

Q. The students' parade?

A. Yes, sir.

Q. Now, you were meeting in the Governor's office?

A. Yes, sir.

Q. While the Governor was reading the Board a communication, why, there was suddenly a very great confusion and noise, wasn't there?

A. Yes, sir.

Q. Did you see what caused that?

A. Yes, sir, we—

Q. Describe that, will you, please?

A. Well, I heard the noise of it coming through the Capitol, a band playing, and singing.

Q. Singing?

A. Yes, sir.

Q. What were they singing?

A. Well, I afterwards learned that it was—

General Crane: No, no.

Q. Could you hear?

A. It was very musical.

Q. It was very musical?

A. But there was lots of confusion, and I couldn't tell.

Q. Oh, I see—it was good singing, then?

A. Yes, sir.

Q. I see. Well, how long after you heard the first singing before the congregation appeared?

A. They went down the Avenue and came back, and halted in front of the Governor's window.

Q. Did they sing all the way down the Avenue?

A. Yes, sir.

Q. Oh, I see, so far as you could hear?

A. Yes, sir.

Q. Then they went down the Avenue, and then came back up the Avenue, and then halted there in front of the window of the Governor's office?

A. Yes, sir.

Q. Did they have any banners?

A. Yes, sir, and the thing—there was a few stopped there and when—I couldn't contain myself, being from the country, I wanted to see anything new, you know.

Q. Any excitement?

A. Yes, sir. I went to the window and stood by the Governor. What shocked me was some of them making faces at the Governor, and a fellow shook his fist at him, I thought it was very disrespectful.

Q. You saw that?
 A. Yes, sir.
 Q. More than one of them?
 A. Yes, sir.
 Q. Uhuh. Well, did you see what was on the banners?
 A. Yes, sir.
 Q. Let's see; let's hear what was on some of those banners. We have never been able to find out so far what those banners contained. Just quote them.
 A. I can't quote them exactly.
 The Chair: Little louder, Mr. Butler, please, sir.
 Q. Well, as nearly as you can.
 A. One of them had something about "Kaiserism abroad"—
 Q. "We are against Kaiserism abroad"—
 A. "And against Kaiserism at home."
 Q. "We are against Kaiserism abroad and"—
 Senator Bailey: Mr. President, ask the witness to speak a little louder, I can't hear him.
 Senator Hanger: I will repeat it, Senator—"We are against Kaiserism abroad and against Kaiserism at home."
 The Chair: Senator, if you are unable to hear from your seat it might be well for you to move up closer to the witness stand.
 Q. Did you see another one?
 A. There was one addressed to the Regents, that we—
 Q. One addressed to the Regents?
 A. Yes, sir; "We are counting on you," or something like that.
 Q. "We are counting on you?"
 A. Yes, sir.
 Q. Then it looks like they must have known that the Regents were there and that was the reason they came to that particular place?
 General Crane: I think that is argumentative, Mr. President.
 Senator Hanger: All right.
 The Chair: The objection is sustained.
 Senator Hanger: All right; I rather think it is a good argument, but it may not be in place. (Laughter.)
 Q. Mr. Butler, how many other banners were there?
 A. I think there were three or four banners.
 Q. I see. Well, how many were in this parade?
 A. I have no idea. I was told there were over two thousand.

Q. Well, did it look like there were about that many in there to you?
 A. Yes, sir.
 Q. Well, do you mean to say that the meeting of the Board of Regents was broken up by that meeting and did not continue after that?
 A. Yes, sir.
 Q. You then adjourned, I believe, for the morning; the reading of the communication of the Governor was never completed, so far as the Board was concerned?
 A. No, sir.
 Q. And you went out to the Regents' room that afternoon?
 A. Yes, sir.
 Q. When you got out there—you went out there for the purpose of investigating what caused this, or who was responsible for this?
 A. Yes, sir.
 Q. How many teachers or professors or members of the faculty were brought before your Board in the course of that investigation, as you remember?
 A. First, Dr. Vinson came, and then I think six—a committee of six.
 Q. A committee of six?
 A. Yes, sir.
 Q. Did you send for them or did they voluntarily appear?
 A. Well, we sent for them, and we were told that they were having a faculty meeting and at that meeting they were to appoint a committee who would represent the faculty before us, when we sent for them.
 Q. And so when you sent for them this committee representing the entire faculty came?
 A. Yes, sir.
 Q. Dr. Vinson told you, did he not, that he knew that a mass meeting—he had given permission for a mass meeting?
 A. Yes, sir.
 Q. But didn't know anything about a parade?
 A. Permission for suspension of classes for two hours—ten to twelve.
 Q. The purpose of which—
 A. I understood was for a mass meeting.
 Q. Was for a mass meeting?
 A. Yes, sir.
 Q. Well, did he tell you that the mass meeting was called within plain view and sight of his office, and that he saw them there and heard them make the speeches?

A. I think he said that he did not.

Q. Well, did you all investigate and see that the place where the mass meeting was held was right outside of his office only a short distance and in full view of it—didn't you all find that out in your investigation?

A. We did not inquire of these six, but I asked another professor privately, and he told me it was formed in view of the President's office.

Q. Yes, pointing out to you the place where it was formed?

A. He said he thought it was about one hundred feet from the window.

Q. I see, from the window. Well, did you all ask Dr. Vinson if he saw this parade, with the banners flying and the band playing, start away from the mass meeting ground—the place where they held the mass meeting, and saw them start off down town, did you ask him about that?

A. I think it was brought out.

Q. And did he say he didn't see that?

A. Didn't see that, and he had nothing to do with it.

Q. Yes, he said he had nothing to do with it, but he didn't see that?

A. Didn't see that.

Q. Well, why didn't he see it—was he looking the other way? Did he tell you why he didn't see it?

A. Well, he said he didn't see the banners, and that he did not have anything to do with the parade.

Q. No, I understand that. I am just asking you what he said and how thorough this investigation was that you conducted; that is what I am trying to get at. Did you ask him whether he heard the band playing?

A. Yes, he must have.

Q. But did you ask him, Mr. Butler? Pardon me, I want to know if you asked him.

A. I don't remember if that question was asked.

Q. Don't remember. Now, those six professors came in. Did you subject them to an inquiry, to an investigation, to an interrogation?

A. Well, they said they had agreed to make a statement of facts and elected a spokesman, and we

heard that spokesman—he presented their position to us from notes.

Q. From notes?

A. Yes.

Q. And when he got through that ended the investigation?

A. For that afternoon.

Q. Well, on that question, I mean?

A. Yes, sir.

Q. There was no cross examination of the spokesman?

A. Yes, we did have it round and round there.

Q. Oh, you had it round and round with him? (Laughter).

A. Yes, sir.

Q. I see. The other members of the committee, did you examine them?

A. Yes, sir, it was a round-table talk after that set speech.

Q. Oh, I see.

A. And the—

Q. Now, the—

General Crane: Wait, let him finish.

Senator Hanger: Certainly, go ahead.

A. The subject was how far professors of the institution should indulge in politics or political activities.

Q. Well, at that meeting, was the question discussed of whether or not they had the right to stop the parade, if they had known about it?

A. Yes, sir.

Q. Did they maintain they had the right or did not have the right?

A. Said they could not.

Q. Said they could not stop it?

A. No.

Q. I see. The faculty of the University, before the Board of Regents of the University, in the Regents' room, presented the position to you that when a parade of students once started they were powerless to stop it?

A. Yes, sir.

Q. Uhuh.

A. I made the statement that I wished there had been a big brother or someone in authority that would have at least requested that the demonstration not be made—

Q. I see.

A. —lest it make a mistake or someone get hurt.

Q. But you couldn't find where anybody even requested that it stop?

A. No, sir.

Q. Now, Mr. Butler, did you at that time have any statement, com-

munication or conversation with Dr. Vinson about his seeing the Governor afterwards and explaining to him about his lack of knowledge or not having anything to do with that parade?

A. "The next day I called Dr. Vinson and asked him to talk to the Governor, and he—

Q. (Interrupting). And explain to him that he did not have anything to do with it?

A. Yes, sir.

Q. And didn't know anything about it?

A. Yes, sir.

Q. You called him from where—from here?

A. From Clifton.

Q. Oh, from Clifton?

A. Yes, sir.

Q. He told you he would?

A. Well, he said to me, "I appreciate your motive and your wish." I said, "Doctor, you understand that I am a friend of yours and to the Governor, and I wish you would go and talk to the Governor"; I says, "You are a Christian man; now, you must remember something about compromising—or giving here and there, and take and give." He said, "Yes, I understand you"; he says, "I don't know whether I can go talk to the Governor or not"; he says, "I will think about it and let you know if I will go"; he says, "I wouldn't like to go unless I was accompanied by someone." I said, "Doctor, you don't need to be accompanied by anyone, you will be perfectly safe; and I wish you would go talk to him, with the view of understanding one another better." I had asked the Governor would he talk to Dr. Vinson, and he said Yes.

Q. You asked him over the phone the same?

A. Yes, sir.

Q. Yes. In that conversation that you talked about a while ago having had with the Governor, you asked him if he would talk to Dr. Vinson and he said yes?

A. Yes, sir.

Q. Now, in that conversation which you had with the Governor, the sole statement of the Governor was to you that on account of your close friendship to Dr. Vinson and on account of this parade that had happened as it had—no effort to stop it, as your investigation had shown, that he wanted to relieve you of em-

barrassment as between you and your friend Dr. Vinson?

A. I don't think he said all that. (Laughter.)

Q. No, I understand, but I say that is what he said, except amplified a little, yes?

A. That's what I understood.

Q. (To opposing counsel): Now laugh. That was the idea in it?

A. Yes, sir.

Q. Did Dr. Vinson in this meeting of the Board of Regents out at the Regents' Room that afternoon express any disapproval of the parade?

A. He said he regretted it.

Q. Oh, yes, I understand, but was there any disapproval of the parade itself?

A. I didn't so understand it.

Q. By Dr. Vinson or any member of the faculty?

A. No, no. I said in talking of it and arguing it, that they had not seen all or heard all as we could see it around the Governor's window. It had been reported a very orderly parade, and it was in most aspects, but there in front of the Governor's window it was very disrespectful.

Q. Did you make that statement to the committee of the faculty that you have just made here, about what its conduct was down here in front of the window?

A. Yes, sir.

Q. And was it in this same meeting and in the same conversation and at the same time, that the faculty declared themselves powerless to prevent such acts as that in the student body?

A. Well, they didn't as a committee, declare themselves, but Dr. Vinson had told us that in dealing with young men, "these are men," he said in an occasion—a condition like this it was almost impossible to control them; and this committee didn't make any expression about that.

Q. I see.

Senator Hanger: That is all.

Redirect Examination

By General Crane.

Q. Now, Mr. Butler, you say that the parade—you went out to the University to look into it?

A. Yes, sir.

Q. To inquire about how it happened?

A. Yes, sir.
 Q. You state that they expressed regrets for it?
 A. Yes, sir.
 Q. For the conduct which you mentioned?
 A. Dr. Vinson was very sorry it happened.
 Q. Very sorry it happened?
 A. Yes, sir.
 Q. And yet you answered Senator Hanger by saying you heard no expression of disapproval?
 A. From the faculty, he said.
 Q. From the faculty?
 A. Yes, sir.
 Q. Now, who was it expressed the regret?
 A. Dr. Vinson.
 Q. Dr. Vinson?
 A. Yes, sir.
 Q. Well, the faculty simply presented the fact—
 A. (Interrupting.) Another subject.
 Q. Another subject, altogether?
 A. Yes, sir.
 Q. They were not discussing with you what occurred at the Governor's window. You were trying to find out who started the parade and who was responsible for its existence, isn't that so?
 A. Yes, sir.
 Q. Rather than to show them the little incidents that had happened at the window?
 A. Yes, sir.
 Q. Yes, that's what I thought. Now, you say they had a banner there that they were "Opposed to"—
 A. (Interrupting.) To "Kaiserism."
 Q. "Opposed to Kaiserism at home and Kaiserism abroad."
 A. "Kaiserism at home and Kaiserism abroad."
 Q. Well, the Governor didn't take any offense to that sentiment, did he?
 A. "Opposed to Kaiserism abroad and to Kaiserism at home," was the ending.
 Q. Opposed to Kaiserism at home as well as abroad?
 A. Yes, sir.
 Q. Now, you and the Governor both agree to that, don't you?—that's good doctrine in America.
 A. Yes, sir.
 Q. You thought so?
 A. But I thought it was indiscreet.
 Q. Indiscreet for a man to take

a banner with the truth on it and march through the street? Why should that be indiscreet?

Senator Hanger: We are rather constrained to suggest to the General that this is his witness.

The Chair: Don't lead the witness.

General Crane: I know, I was trying to get the witness' point of view.

Q. All right, we will get to the rest of it. You say that the parade came marching down and as a rule it was exceedingly orderly?

A. Yes, sir.

Q. They were singing a song?

A. Yes, sir.

Q. And it was a musical song?

A. Yes, sir.

Q. They had a band playing and were carrying those banners?

A. Yes, sir.

Q. They were marching through the capitol which belongs to the public?

A. But they disturbed us in our meeting.

Q. Yes, sir, but they didn't come to the Governor's office?

A. No, sir, but they came to the window.

Q. The window was raised and the Governor went to the window and you went there too?

A. Yes, sir.

Q. Now, didn't the Governor hail those boys?

A. No, sir, he just stood and watched them.

Q. Didn't he say something to them?

A. Yes, sir, presently.

Q. Didn't he demand that they bring the banners to him?

A. Yes, sir, one banner particularly.

Q. What banner was that?

A. Well, sir, I declare I don't remember, but I think perhaps it was that "Kaiser" banner. (Laughter.)

Q. The "Kaiser" banner?

A. Yes, sir.

Q. That attracted his attention and he wanted to see that?

A. Yes, sir.

Q. Well, then when he began to talk—up to the time he began to talk, they didn't say a word to him, did they, the boys?

A. Oh, yes, they would stop and look back.

Q. Stop and look back?
A. And sometimes make a face at him.

Q. Sometimes make a face at him?

A. Yes, sir. (Laughter.)

The Chair: Preserve order, please.

Q. Now, wasn't it the young ladies that made most of the faces?

A. Why, I thought the young ladies were very orderly and lady-like.

Q. You thought the young ladies were very orderly and lady-like—no criticism of them?

A. Yes, sir.

Q. Now, did the Governor say nothing harsh to the boys?

A. I didn't hear him say a harsh word.

Q. He was very angry, wasn't he?

A. I thought he was wonderfully composed.

Q. What did he say?

A. He asked one young man—"Hold up, young man," he says, "what is your name, you young man there, holding that banner?"

Q. "Hold up, what is your name?"

A. Yes, sir.

Q. He was passing on until he was called?

A. Yes, sir.

Q. Exactly. He told him his name, didn't he?

A. Yes, sir.

Q. And then didn't he ask another young man who was marching in a Government uniform, didn't he tell him that that was a speech that he could be subject—shot for, that he was guilty of treason?

A. I didn't hear that.

Q. You didn't hear that. You know Mr. Peden?

Mr. Harris: Mr. Peddy—Mr. George Peddy.

Q. Mr. Peddy, yes. A member of the Legislature, Mr. George Peddy?

A. Yes, sir, he was pointed out by some one as a soldier.

Q. You didn't hear what the Governor said to him or about him—that he could be shot or that he was guilty of treason?

A. No, sir; no, sir.

Q. Yes. Didn't Mr. McGregor put his hand on the Governor's shoulder or touch him or come in contact with him and tell him to be calm?

A. No, sir.

Senator Hanger: Mr. who?

General Crane: Mr. McGregor.

Senator Hanger: Oh.

Q. Did anybody do that?

A. No, sir, there was no one unless it was Major Littlefield, that said "Governor, be calm."

Q. Be calm?

A. Yes.

Q. Well, why did the Major say that to him? He was already calm.

A. Well, Major was pretty exercised, and it seemed like he thought the Governor must be getting that way, but to me the Governor didn't show near the exercise as the Regents.

Q. As the Regents, yes.

Senator Hanger: Regent.

Q. Well, Major Littlefield is a pretty cool, collected, calm gentleman, isn't he?

A. Very.

Q. Yes, can face any sort of a situation with courage and coolness?

A. Yes, sir.

Q. And yet he advised the Governor to be cool?

A. Yes, sir.

Q. Did they have any Rangers in the room?

A. No, sir.

Q. There were some just outside, weren't there?

A. I don't know, sir.

Q. You don't know about that?

A. No, sir.

Q. Yes. Now, you stated that the Governor had a talk with you before that parade and at the time of your appointment, about what was being done at the University, that there were some books being sold there at exorbitant prices. Now, he did not tell you what the Board of Regents, composed of such men as Major Littlefield, Mr. Sanger, Mr. Hogg and others, and Dr. Cook—Mr. Fred Cook, didn't tell you that they had investigated those matters and found that there was nothing in them, did he?

A. No, sir.

Q. He never conveyed that information to you?

A. No, sir.

Q. He never told you that about the Mather incident?

Senator Hanger: We shall object to his leading the witness again.

General Crane: I don't think I am leading, Your Honor, I am trying to find out whether he told him anything about those matters or not.

Q. Did he state anything to you about the fact that Dr. Mather had been exonerated by the Board of Regents and that he had never made a penny's profit out of the book-selling business—did he communicate that to you?

A. No, sir, you see I was a new member.

Q. A new member, yes. Now, did he tell you that that question of mileage tickets, or professors or employes of the University buying mileage tickets grew out of a custom of the country that had grown up there and that the departments of the State government had been guilty of the same thing—did he tell you that?

A. No, sir.

Q. Did not give you any information like that?

A. No, sir.

Q. Did he tell you that the abuses had grown to such an extent that the State Comptroller had written a letter advising against it—didn't say anything about that, did he?

A. No, sir.

Q. No. You say he complained something about an expense account of somebody going to Fort Worth?

A. Yes, sir.

Q. He didn't tell you, however, that Dr. Ellis paid that expense out of his own pocket, did he?

A. Well, I don't think he told us that.

Q. You don't think he told you that?

A. He told us about an account being made out to a man and his wife.

Q. For a man and his wife—

A. (Interrupting.) He told me—

Q. —without giving the circumstances under which it was made. Did he tell you that the professor was sent up there and couldn't go without taking his wife with him on account of their having a young baby?

A. No, sir.

Q. He did not tell you that that professor went to fill the place, of a man who was to come from Pennsylvania and could not get there, and by sending an Austin man and his wife it saved the University a hundred dollars or more?

A. No.

Q. And then he did not tell you that when objections were made to paying the wife's expenses, that Dr. Ellis paid it himself—he did not

convey that information to you, did he?

A. No, sir.

Q. No.

A. The idea was that there had been irregularities.

Q. Yes. Well, now, he did not complain of any irregularities in the Governor's office, did he—did he convey that information to you?

A. No, sir.

Q. Didn't he tell you that the mileage ticket business had been settled by Dr. Vinson long before, and that the whole matter had been eliminated?

A. He mentioned that—that this mileage business had been an irregularity.

Q. Well, didn't he say it had been settled—eliminated, did he tell you it had been eliminated?

A. I think so, that it had been settled.

Q. You think so?

A. Yes, sir.

Q. It had been stopped?

A. Yes, sir, but it was in the beginning, if I understood him right, of this matter of straightening out of irregularities.

Q. I didn't get that last, Mr. Butler.

A. I say the mileage business was a question that had been in the early part of this straightening out of irregularities.

Q. I see. Now, what new offense had Dr. Vinson committed after these irregularities had been straightened out—of what did he complain of Dr. Vinson, what had he done? All these things had happened before he came in, didn't he tell you?

A. Well, he didn't get to tell us that, but I read this communication after the meeting adjourned there in the office.

Q. No, I am talking about—I am only cross-examining you not about the contents of the communication, but what he told you; in answer to Senator Hanger's question you said he told you about various complaints?

A. Oh, he didn't complain of Dr. Vinson until the very last day.

Q. Now, what was his complaint at him, then?

A. Well, as I say, he had not read to that part when we were broken up.

Q. Well, but did he tell you anything about it on that last day?

A. No, not on that day, no, sir.

Q. No. Now, he complained of Professor Mayes, of the Journalistic Department, because he had sought to—

Senator Hanger: Mr. President, I hate to be in the attitude of making continuous objections, because I know the position it puts a man in, but if I remember correctly—of course, I have a short memory and I may be wrong, it may be that we put this witness on the stand, but if I am not mistaken the General put him on the stand. He said just now that he is cross-examining him, and I may be wrong—if I am, I beg his pardon and the Chair's, but he has not asked any question since he took him back on redirect examination, if indeed he put him on, that was not grossly and flagrantly leading, and we object to it.

The Chair: Counsel will please refrain from leading the witness.

General Crane: I will endeavor to do so, sir. The Senator's memory is improving—I did put him on.

Q. Now, Mr. Butler, just state what his objection to Will Mayes was?

A. I don't recall that I ever heard Governor Ferguson refer to Will Mayes other than in the language that his newspaper had attacked him.

Q. That his newspaper attacked him?

A. Yes.

Q. Did he know whether Will Mayes controlled the newspaper or whether he had leased it out?

A. I don't know.

Q. You don't know about that. Now, didn't he complain at Cofer because he attended a political convention?

A. Yes, sir.

Q. Now, did he tell you or did he not—did he tell you how he happened to go to the convention?

A. Cofer?

Q. Yes.

A. No, sir, he—

Q. Did he tell you how he happened to be chosen chairman of the convention?

A. He told me he was chairman of the convention.

Q. Was chairman, but did he tell you also that—did he make a statement to you that Cofer tried to get

them to endorse his administration—made any effort in that direction?

A. The Governor was under the impression that Mr. Cofer was unfriendly to him.

Q. Unfriendly to him?

A. Yes, sir.

Q. Personally, but he—

A. Yes, sir, and in that convention.

Q. And in that convention?

A. Yes, sir.

Q. But he assumed that he was and wanted him dismissed as a law professor because he thought he was politically unfriendly to him in a little county convention in Travis County?

A. The Governor's information, evidently, was that Mr. Cofer was unfriendly to him.

Q. Yes, and he impressed you that way?

A. Yes, sir.

Q. And you afterwards apologized, didn't you?

A. Yes, sir, I investigated it and I found that Mr. Cofer was friendly to the Governor in that convention.

Q. And you retracted the statements—

A. (Interrupting.) Yes, sir.

Q. —that you had made about Cofer, for the reason—

A. Yes, sir, my information was that Mr. Harris had been called to the chair and by Mr. Cofer requested to withdraw his objections to the resolution endorsing the administration—

Q. Yes.

A. —and making Governor Ferguson a delegate—

Q. Yes.

A. —to the State convention.

Q. Yes. Well, now, Governor Ferguson made his objections purely on a personal basis, didn't he?

A. I think on misinformation.

Q. I know, but he didn't complain that he was not qualified for the position he held—that he was not a good lawyer, did he?

A. No, sir, I never heard him censure the man.

Q. No, never heard that?

A. His ability or qualifications.

Q. His ability or qualifications; it was because he did not suit him personally?

A. I think it was because of information that had reached the Governor.

Q. Well, I am not asking for your opinion as to what it was; I am only asking you what he said.

A. Yes, sir.

Q. And upon what he based it?

A. Yes, sir.

Q. Now, as to how he was misinformed, that is a matter that he will know best. Now, what was that conversation that you had with him, that he wanted you to resign because it would embarrass him or embarrass you or embarrass both of you—just what was that statement again, I am not clear about it?

A. For me to remain would be embarrassing to him.

Q. Would be embarrassing to him?

A. Yes, sir.

Q. Yes, I see.

General Crane: That will do.

The Chair: I have a couple of questions here, gentlemen, that a Senator sent up and desired to be asked. The first question:

"Did the Governor give you as a reason for his desiring the removal of Dr. Vinson, that he had been guilty of any wrong practices?"

The Witness: As I say, there was a prepared paper the Governor had presented to us, and before he had read to that—hardly well started in the paper, we were broken up by the parade, and didn't hear it; when I read it afterwards there was the criticism that he was a minister—a sectarian minister; that was presented in this paper, I think.

The Chair: The second question:

"What reason did he give for wanting Dr. Vinson removed?"

The Witness: That is it—that he was a sectarian minister.

The Chair: These questions are by Lattimore. Any further questions, gentlemen?

General Crane: There is one question I forgot to ask Mr. Butler.

Q. (General Crane). Mr. Butler, you stated that Dr. Vinson said it was difficult to control that large crowd of boys?

A. Yes, sir.

Q. Well, now, did you have an opinion about that yourself—do you think that is correct?

A. Yes, sir, I do.

Q. Have you any boys of your own?

A. Yes, sir.

Q. How many?

A. Two.

Q. Two. If you had two thousand

do you think you could handle them easily?

A. No, sir. I can understand that young men would be hard to control. General Crane: That will do.

Re-cross Examination

By Mr. Hanger.

Q. Do you think that a University faculty, even though there are two thousand students in the University, or twenty-five hundred, can control the conduct of those students and preserve order?

A. Oh, what I said and what I do think is that there should have been an effort made, or a request made that they not indulge in this demonstration. I don't know whether you could stop it, but what I wished was, in my position trying to work as a peace-maker, I wished there was a request made that they do not have the parade.

Q. Mr. Butler, don't you know when Governor Colquitt vetoed the \$711,000 appropriation, and they had a mass meeting out there and they started a parade that President Mezes stopped it before it went a hundred feet?

General Crane: The witness wasn't there and perhaps doesn't know it.

A. No, I don't know that, but I know it would be difficult to stop such a large number, and under excitement.

Q. Now, they asked you about a statement made down here that day. You were standing right by the Governor's side, weren't you?

A. Yes, sir.

Q. If he had made such a statement there as indicated by the question of General Crane, you would have heard it, wouldn't you?

A. Yes, sir.

Q. So he didn't make such a statement, did he?

A. I have forgotten now. We asked the individual men—

Q. I mean outside of the statements you have testified to, he made no other statements?

A. Yes, sir.

Re-direct Examination

By General Crane.

Q. Hadn't it been generally printed in the newspapers that the Regents were going to hold a meeting there?

A. Yes, sir.

Q. State also whether it had been

said and printed that the Governor was about to veto the appropriation for the University?

A. Yes, sir.

Q. And those boys and girls marched down there on that account?

A. Yes, sir.

Q. Don't you think they were very much interested in the question?

A. Yes, sir.

Q. Don't you think those boys asking to be educated at the State University should be denied the privilege of even asking the Governor what they wanted?

A. I would have chosen another way.

Q. You would have chosen another way to make their wishes known?

A. Yes, sir.

Q. But their right you concede to make their wishes known?

A. I concede their right, but I question their discretion.

Recross Examination
By Mr. Hanger.

Q. You question the manner in which they did it?

A. Yes, sir.

Q. And the fact the University officers and those in control of their affairs did not try to stop it?

A. Yes, sir.

The Chair: Senator Henderson asks this question: "What do you mean when you say you were broken up by the parade?"

The Witness: We mean the board of regents was—it was impossible for us to do business, or to hear one another. We couldn't proceed. That's what I mean by saying the meeting was broken up by the parade.

Redirect Examination
By General Crane.

Q. How long did the parade last?

A. I suppose something like an hour.

Q. Just passing through?

A. Yes, they went down the Avenue.

Q. Then came back?

A. Came back.

Q. You stopped work all the time they were gone?

A. Oh, when they got down about, I don't know how far, I would guess Sixth Street, the last was just passing.

Q. Now, isn't it true, if you had

shut the windows instead of opening them up and going to them like boys watching a circus, perhaps it would never have disturbed you at all?

A. No, we could not talk with the band playing.

Q. The band playing would call you to the windows in spite of all you could do?

A. The regents kept seated.

Q. These gentlemen here want to know about that song that was sung. I don't know much about music but what was it?

A. "The eyes of Texas are upon you."

The Chair: Another question: "Couldn't you have proceeded after they passed on?"

The Witness: It was lunch time.

Senator Bee: I didn't hear the answer.

A. It was lunch time.

General Crane: That was the reason you adjourned, wasn't it, you were hungry?

A. Hungry, yes, sir.

Q. I see, I see. I never did understand that.

The Chair: Any further questions.

General Crane: That's all.

The Chair: Are you through with this witness?

General Crane: Yes, sir.

The Chair: You are excused, Mr. Butler.

The proponents called

DR. R. E. VINSON

to whom the oath was administered by the Chair, as follows:

"You solemnly swear that the evidence you shall give in this hearing in the impeachment proceeding of James E. Ferguson, will be the truth, the whole truth, and nothing but the truth, so help you God"; and who, thereupon, in answer to questions propounded, testified as follows, to wit:

Direct Examination
By General Crane.

Q. Your name is R. E. Vinson?

A. Yes, sir.

Q. You are the present President of the Texas University?

A. I am.

Q. When were you chosen, Doctor, and when did you begin to officiate as such?

A. I was elected at the Board meeting in April, 1916, and began

service on the first of July, 1916.

Q. After your election—no, before we get to that. Where had you been educated, Doctor?

A. I was educated in the public schools at Sherman and in Austin College, at Sherman, and Union Theological Seminary in Virginia, and a part of the summer term in the University of Chicago, in 1902.

Q. Of what State are you a native?

A. South Carolina.

Q. Your father's family had been living in that State a long time?

A. Ever since the French Huguenot settlements in South Carolina.

Q. Then that indicates that you are old American stock, so far as any of us are Americans. Had you been engaged in teaching, Doctor, before you were elected President of the University?

A. I was for fourteen years a professor in the Austin Presbyterian Theological Seminary.

Q. You are a Presbyterian Minister?

A. Yes, sir.

Q. Duly ordained by the proper authorities of that church?

A. Yes, sir.

Q. Now, taking somewhat in detail, beginning while you are a minister, state whether or not you have been preaching since your election as President of the University, and delivering addresses, and if so, what were the character of the addresses, whether sectarian or otherwise, and about when and where did you deliver them?

A. I have preached a few sermons since I have been President of the University, about nine, altogether, possibly ten now, at about as many different places in Texas, all the way from Houston to El Paso, and in almost as many different sort of churches as there were addresses delivered. Those sermons have been, like most of the sermons that I preach, those sermons—

Mr. Hanger: We think that answers the questions, Mr. President.

General Crane: I think the witness, Your Honor, is to be the judge of that.

Mr. Hanger: We think that when he asked him how many sermons that he preached that he answered the question, and we have no objection to that, Mr. President, that is a material inquiry to this investigation.

General Crane: If counsel had been paying attention, Mr. President, I don't think he would have made the objection. I asked the number of sermons that he preached, and if so, whether sectarian or not, and when and where delivered. You only got part of it.

Mr. Hanger: Of course, that is my fault, not paying attention, and I am properly reproofed for that.

General Crane: I didn't mean it for a reproof, but just for your information.

Mr. Hanger: I frequently ought to be reproofed, and if it is proper, that is all right. I make this suggestion: it is not a relevant inquiry under the articles of impeachment here filed, the question asked.

The Chair: What does counsel say as to the relevancy.

General Crane: The relevancy is this, 'we will be able to show, and will prove in proper form and proper time that Governor Ferguson's public statements, his objections, not his objections he gave before the House Committee, that is entirely apart from that, that his objections to Dr. Vinson were, among other things, that he was a sectarian preacher, and that since he had been President of the University he had preached about a hundred and eighty, or a hundred and ninety sermons, I don't know just how many, of a sectarian character. It seems to me it would be proper to let the Senate know whether he did so or not, then they could form their own estimate of the matter.

Mr. Hanger: But they have not made that the basis of the charge here. It is not embraced in one of the articles of impeachment, not even mentioned indirectly as I read them.

General Crane: Just a moment; I think the Senator will not insist upon that objection. We have in these articles of impeachment, we have charged that because of hostilities to Dr. Vinson, not in that language, and the other professors, of a professional nature, that he has sought to drive them from the University by vetoing the appropriation bill. Now, as a proof of that we propose to prove, as we may from time to time, that the charges made by the Governor against Dr. Vinson, which he insists disqualified him, he being a minister, was not in fact cor-

rect. If we can disprove that by the record—we do not disprove that he is a preacher but was to prove he has—

Mr. Hanger (interrupting): If I may continue to state the position on behalf of the respondent and in anticipation—and the reason I do that at this time is in anticipation of the investigation which I assume will be the—interrogation which I assume will be employed by General Crane, Article 14 is the first one of these on this subject—I believe it is 15—it is 15, Mr. President. “That the Governor has vetoed, or attempted to veto the entire appropriation for the University of Texas, except the salary for one officer, thus, in effect, seeking to set aside that provision of the organic law requiring the support and maintenance of that institution, and to set aside the express will and the judgment of the people of Texas. Though he had the legal power of veto, it was his sworn constitutional duty to again submit the question to the Legislature, which he has declared to the people of Texas that he would not do, and it was only when a session had been called for his impeachment and it was apparent that a quorum of the House would attend to consider that question, and as a last extremity, he consented to call a session of the Legislature and submitted the question of appropriations for the University of Texas.”

The only question involved in that is the veto of the appropriation, that is all in Article 15.

“Article 16 of the Constitution provides for a Board of Regents for the University of Texas who shall hold office for six years, their terms expiring one-third every two years. The purpose of the people of Texas in the adoption of this provision was to take the University of Texas, and all other such State institutions, from the control of politics, and to keep the different boards from being under the control and domination of whoever might happen to be Governor. By Articles 2639 and 2640 of the Revised Civil Statutes of 1911 the Board of Regents are given the management of the affairs of the University of Texas, with the discretion to remove members of the faculty when in their judgment it is deemed best. That it

is the duty of the Governor, or any private citizen, to call attention of the Board of Regents to any mismanagement or improper practice at the University or any other State institution is readily conceded. The people themselves have given to the Board of Regents, by constitutional enactment, which has been confirmed by statutory law, the sole right to judge of the truth of the charges and the punishment to be inflicted against members of the faculty. The Board of Regents in their sphere are just as supreme as the Governor is in his, each have both constitutional and statutory duties to perform, and each being answerable to the people of Texas. The Governor of Texas not only filed charges against certain members of the faculty as he had a right to do, but after the members were exonerated by the Board of Regents he has sought to have members of the faculty expelled from that institution because he desired it. He has thus sought to set aside the Constitution and law giving to the Board of Regents the discretion in matters of this kind and assert instead of their legal judgment his own autocratic will.”

Now, we respectfully submit that it is not material to this inquiry here, but the only material inquiry is whether he sought to do this, and the purpose, whether it was because he alone desired it, but not through the Board of Regents. Now, the next is, “he sought to remove the Board of Regents without any cause and demanded the resignation of others simply because he could not dictate to them how they should cast their votes in reference to matters arising before them. Such conduct was a clear violation of the law and would serve to make inoperative the provisions of the Constitution providing for six-year terms of office.”

The next, the eighteenth, is the last one; “that he has declared to the people of Texas that the faculty of the University are grafters and corruptionists, that they are liars and that they are disloyal to their government. . . . If he knew the charges to be true it became his sworn duty to cause the parties involved to be prosecuted. If he did not find them to be true (and the Board of Regents, after a fair hearing, found that they were not true), he is guilty of crim-

inal libel and slander against the fair name of Texas and one of its most cherished institutions."

General Crane: Now that is the same question again: We are charging that he wanted to remove the faculty members because he desired their removal. Now, as evidence of that, surely we do not have to plead all of our evidence, I never knew of that before. As an evidence of that now, we offer to prove that he is making unfounded charges against Dr. Vinson, that Dr. Vinson ought to be removed because he has devoted himself to the services of the Presbyterian Church and preaching sectarian doctrines, or, in other words, in preaching the peculiar faith and doctrine of the Presbyterians as a contradistinction from others. Because of public statements we propose to prove that he said that was not fair to the other denominations of the State. Surely we ought to be permitted to prove whether or not these grounds upon which he bases his personal objections to Dr. Vinson, whether or not they are in fact unfounded. That is the reason we think this testimony is admissible, and we do not believe that in a matter of this sort that the Court could restrict us to this by any too close rules, but that every fact ought to be opened in matters of this sort, as it is in cases where fraud is charged, or when anything else is charged that leads to an examination of every circumstance that enters the mind of the man who is charged with being the wrongdoer. Our proposition is it was upon the Governor to ascertain the facts before he made the charge against the head of one of the State institutions that he was preaching a hundred or a hundred and fifty sermons a year of a peculiar kind or character—that on the contrary he had done no such thing.

Mr. Hanger: We understand, Mr. President, that rules are prescribed here for the admissibility of testimony, and that this is not as the General indulged in in the House, an investigation going on for the purpose of eliciting information upon which to base charges, and there they were allowed the utmost freedom, both sides were. I may say—no complaint about that, that was done for the purpose of allowing the General and his associates to develop such testimony as in their judgment would form the

basis of charges to be here preferred, that have been preferred, and they are limited to material relevant testimony, and cannot go beyond that, as we understand the rule.

If I may be permitted, Mr. President—but probably that would not be proper here to take issue with the General about the number of sermons that have been charged because that does not bear upon whether this testimony is admissible or not. The only question now we are interested in is whether or not it is relevant, whether it is competent, whether it is material to any charge here made, laid against the Governor, the Respondent here, whether or not it throws or sheds any light upon his culpability, as they claim in these charges.

The Chair: I will call attention of counsel to portions of the charges, sixteen and seventeen as follows: "The Governor of Texas not only filed charges," (that is part of Article 16) "against certain members of the faculty, as he had a right to do, but after the members were exonerated by the Board of Regents, he has sought to have the members of the faculty expelled from that institution because he desired it."

Article 17. "Article 6027 of the Revised Statutes of 1911, provides for the removal of members of the Board of Regents (among other officials) for good and sufficient cause. The Governor has sought to remove members of the Board of Regents without such cause simply and only because he could not dictate to them as to how they should cast their votes with reference to matters arising before them."

Now, if this be followed up, as the Chair recollects it, Mr. Butler testified the only objection that was made by the Governor to Dr. Vinson was that he was a sectarian preacher. When he was discussing his removal, the only reason he demanded his removal. And if it is followed up, as counsel say they will follow it up, then it is the opinion of the Chair it is relevant, so the objection is overruled.

Q. All right, Doctor, state the places, the character of churches, that is the kind of churches in which your addresses were delivered, and whether or not they were addresses peculiar to the Presbyterian Church, or whether they were such addresses as could be delivered with propriety in any religious assembly?

A. They were certainly of the latter sort, General, because the sermons

that I have delivered in the last year have been delivered in various sorts of churches, in Jewish synagogues, in Methodist churches, before Young Men's Christian Associations, in cities and army camps, and I think only one or possibly two in Presbyterian churches, in the last year, in the last year and two months.

Q. Now, much has been said about the University work out there, the character of teaching, and the extravagance, as the basis for dismissing teachers, etc., and members of the faculty. Are you familiar, Doctor, with the course of conduct of the University of Texas, and other like institutions in the United States?

A. Yes, sir.

Q. Will you be good enough to make a comparison between it and other universities of its class?

Mr. Hanger: We submit that is not material from any standpoint whatever; that it is going into outside matters; has no connection, whatever, with this investigation. We have no objection, and could have none, Mr. President, to a proper inquiry about these charges. If we have any objections, it would not do any good because they are entitled to go into everything that is a legitimate inquiry.

The Chair: Excuse the Chair a moment, the Chair thinks you are right, but if the General can show any argument why it is admissible or relevant—

General Crane: Mr. President, we are seeking to show that the pretended ground of extravagance,—we can show by speeches the Governor made all over the West since he vetoed this appropriation, that he vetoed it on the ground of extravagance. He held up the University as the most extravagant institution in the land. He held up how much it cost to educate a student in the University and how much it took in the common schools.

Now we want to show that was but a pretext, or at least if not a pretext, a want of information; that the University of Texas is not extravagant but as economically managed and administered as any institution of the character in the United States.

The Chair: I do not find anything in the charges here against the Governor protesting those charges.

General Crane: I think I can find that, sir, just a moment. Mr. President, I suppose we had better read these articles of impeachment now, so we can get our view before the Court.

"The people of this State have adopted an organic law, the Constitution of Texas, equally binding upon its highest officials and its humblest citizens. Article seven of that Constitution provides for the maintenance and support of the University of Texas. That provision is a direction given by the people themselves in the most solemn manner to those who represent them in office as to their duties.

"The Governor has vetoed, or attempted to veto the entire appropriation for the University of Texas except the salary for one officer, thus in effect seeking to set aside that provision of the organic law requiring the support and maintenance of that institution, and to set aside the express will and judgment of the people of Texas. Though he had the legal power of veto it was his sworn constitutional duty to again submit the question to the Legislature, which he has declared to the people of Texas that he would not do, and it was only when a session had been called for his impeachment and it was apparent that a quorum of the House would attend to consider that question, and as a last extremity, he consented to call a session of the Legislature and submitted the question of appropriations for the University of Texas."

Now taking those two sections, as far as I have read, as to Section No. 15, and others, it is clearly apparent as the intention of the pleader. In the first place it was the duty of the Legislature to make the appropriations for the University and that while conceding to the Governor the right of veto, it ought not to be an improper veto. Surely, Mr. President, if we can show the Governor of this State vetoed an appropriation bill for the University because he disliked the faculty, because he disliked the President, and thus deprive the young men and women of Texas of the benefit of that institution, it goes to the good faith of his veto, and the Court ought to consider that in determining whether or not his veto was arbitrary for the purpose of destroying the University, and in order to keep it from performing its functions under the Constitution.

But then going on down in sixteen:

"Article 16. Section 30a of Article 16 of the Constitution of Texas provides for a Board of Regents for the University of Texas who shall

hold office for six years, their terms expiring one-third every six years. The purpose of the people of Texas in the adoption of this provision was to take the University of Texas and all other such State institutions from the control of politics and to keep the different boards from being under the control and domination of whomever might happen to be Governor. By Articles 2639 and 2640 of the Revised Civil Statutes of 1911 the Board of Regents are given the management of the affairs of the University of Texas with the discretion to remove members of the faculty when in their judgment it is deemed best. That it is the duty of the Governor, or any private citizen, to call attention of the Board of Regents to any mismanagement or improper practices at the University, or any other State Institution, is readily conceded. The people themselves have given to the Board of Regents, by constitutional enactment which has been confirmed by statutory law, the sole right to judge the truth of the charges and the punishment to be inflicted against members of the faculty. The Board of Regents in their sphere are just as supreme as the Governor is in his, each having both constitutional and statutory duties to perform, and each being answerable to the people of Texas. The Governor of Texas not only filed charges against certain members of the faculty, as he had a right to do, but after the members were exonerated by the Board of Regents, he has sought to have members of the faculty expelled from that institution because he desired it."

Now right here, Mr. President, I wish to call your special attention to the testimony of Regent Brents who stated that he told them, told him before he went to Galveston that unless these members of the faculty, including Dr. Vinson, were expelled he would veto that entire appropriation because he wasn't going to turn it over to that mob. Now, if the Court please, we want to strengthen that witness' testimony just there by showing that his alleged grounds that he has made in his public statements since for the vetoing of this appropriation did not exist, it was not extravagance.

The Chair: Pardon me, I don't see anything in the articles of impeachment or the answer of the re-

spondent which alludes in any way to the question of extravagance. The Chair has ruled you can show his alleged grounds for the removal of the members of the faculty would not be well taken. I do not find anything at all in the articles you read, or the answer of the respondent, that he made extravagance a cause of the veto.

General Crane: Yes, sir, I think that is in his veto message. It has been read in evidence.

The Chair: I am talking about the pleadings.

General Crane: We are trying to show that the veto was not for any other reason, that there was no reason to justify it except his personal ill will against Doctor Vinson and the other members of the faculty, and in that way he was seeking, as these articles say, to substitute his will for theirs, and compel the Board of Regents to do what he wanted them to do or else he would destroy the University entirely. Now Article 16 in my judgment, plainly states that, Mr. Chairman. "The people themselves have given to the Board of Regents, by constitutional enactment which has been confirmed by statutory law, the sole right to judge of the truth of the charges and the punishment to be inflicted against members of the faculty. The Board of Regents in their sphere are just as supreme as the Governor is in his, each having both constitutional and statutory duties to perform, and each being answerable to the people of Texas." "The Governor of Texas not only filed charges against certain members of the faculty, as he had a right to do, but after the members were exonerated by the Board of Regents, he has sought to have the members of the faculty expelled from that institution because he desired it."

Now, Mr. Chairman, on that ground have I not the right to show that there was no other reason for vetoing this appropriation for this University except his dislike for these professors and the President? One witness has testified to it and now we want to corroborate it by showing unquestionable facts, as we believe, that there was no extravagance. And then again, Mr. President, you will remember that in some of the testimony offered on cross examination of Mr. Butler, it was particularly asked

and stated that the University was extravagant in that they paid salaries to teachers and professors who had been absent; that they paid one man a salary and permitted him to earn on the outside. They have opened up the entire situation in that, and showing abuses as his reason for interfering with the management of the University, as his reason for taking it up with the Board of Regents, that there were abuses there in that body. Now we think as a matter of course we ought to be permitted to show that there was nothing of any grave importance, that the University was economically managed and if little matters had grown up from time to time they have been corrected, and I think, if the Court please, that it is absolutely fundamental that we have a right to show how that University was managed; and whether the Governor had any right to go out there and interfere and make a series of charges against them.

Mr. Harris: I want to read the article in his veto message, first paragraph reads as follows:

"First: The Legislature just adjourned has appropriated in round numbers \$1,640,000 for the support of the State University for the next two years. The institution now has considerably less than three thousand students, or in other words, the State is called on to pay approximately \$545 per student for University facilities for those who are able to attend said institution for the next two years. In all probability the State will not set aside for those attending the common schools of the country more than \$15 for the next two years. Before we commit ourselves to the expenditure of this vast sum of money for the benefit of such a comparative few of our people, we ought to satisfy ourselves that the money is being wisely spent. And this brings us to the question of what is the University doing and what is it seeking to do."

Now he makes the charge there in his veto message that the cost per student is \$545 every two years. He makes the statement that there is considerably less than three thousand students in the institution. He compares that with the amount appropriated for the common schools. Now, the actual facts with reference to that, whatever they are, we submit

ought to be given upon the question of whether or not it was a good faith appropriation for the reasons given, or whether it was an appropriation, as Mr. Brents says, or veto rather, made solely because they would not dismiss Doctor Vinson and the other faculty members. If the Governor's real reason was nothing on earth but a personal grudge against certain men in the University, the members of the Senate might not approve it. On the other hand, if he vetoed it because it was an excessive appropriation per student, a good many might justify it, and for that reason we offer the testimony.

Mr. Hanger: It seems to me we have again wandered a long distance from the allegations, the charges and the answer. I do not understand that it is a material question here now what Governor Ferguson said in some speech somewhere—that is, I do not understand that we are now considering that, and that it is entirely beside the question for these gentlemen to give as a reason for the admissibility of this testimony that Governor Ferguson made some statement in some speech. The material question here, Mr. President, is: What is the charge? What does the answer say? Is any proposed testimony made material to a charge or material to the answer?

General Crane: Mr. Hanger, before you close, so you may have the benefit of it, there is a part of 18 to which Your Honor's attention has not been directed, as I believe: "The Governor of Texas has in public speech and published writing declared to the people of Texas that the faculty of the University are grafters and corruptionists." Now, Mr. Chairman, how could they be grafters and corruptionists without misapplying public funds that are appropriated for the maintenance of the University? The question I propound is, if the appropriation made for the University is reasonable and it has been honestly applied and at no greater cost than any other University, then it puts upon them the burden to meet that situation. How can the faculty and regents be grafters if the University has been as economically managed as it can be and every dollar of the money properly accounted for? That is what we are seeking to show now by this witness—to

show that they are not grafters, that the money is honestly applied to the salaries and legitimate expenses which are paid in other institutions of like kind. It is the very gist of this whole matter, that the Governor has sought to make unpopular and to arouse the passions and prejudices of the public against the University, because the president and its faculty are charged with misapplication of the public funds that are appropriated to it. There is the charge there as stated in his veto proclamation and here in this article. How could we disprove graft? If we used the money unnaturally and in an unusual way and applied it that way, we could possibly be guilty of graft. It might justify the charge; but when we come before this Court now and want the privilege of showing the Court how every dollar appropriated by the Legislature was used by the faculty, why, in order to clear up the good name of the faculty and the Board of Regents I submit, Mr. President, there ought not to be any question about our right to tell this Court and through the Court their constituency in the country whether or not we have handled this money properly and whether we have administered that University in a reasonably economical way, because if we have not we have been faithless to our trust and might justify some of the charges made against us.

Mr. Hanger: Mr. President, in the utmost good humor and without taking particular exception, I must protest against one custom that has grown up in this trial. I have not risen to make a statement a single time that the General has not insisted upon making a speech in the middle of it, and I have to admit it is disconcerting. I do not wish to cut him off from any privilege that he desires to exercise or any consumption of time that he thinks is necessary; but it is disconcerting to me with my limitations, to which I plead guilty, to have that occur every time that I try to state something, because my ability to make a clear statement is so poor that I must have all the advantage of a consecutive statement that I can possibly have.

The Chair: That statement would not have been permitted except it was understood—

Mr. Hanger: (Interrupting.) Oh, I permitted it—I am not complaining at the Chair—no, General, I don't want you to make another speech.

General Crane: No, I am not going to make another speech, but I suggest if distinguished counsel had made known his objection in the beginning there would have been no reason for any.

Mr. Hanger: I yielded for him to make it. I am simply making the request to him for his future behavior.

General Crane: Well, you could whisper it to me and not take up the time of the Court with it.

Mr. Hanger: I see. I will not take up any more time than my friend has. Now, Mr. President, as I started to say a while ago, that the question here is not what the people of Texas are going to conclude about the conduct of this University. The question here is and the issue here involved is not what it costs to run other universities throughout the United States, and that is the question that he has just asked this witness and asked him to enter into a dissertation upon; but the question here is, what have they charged and what is material? What is material evidence and testimony to bear out and substantiate those charges? He reads Article 18 here and gives that as a justification for attempting to prove what it costs to run universities in Louisiana, Arkansas or Alabama. The charge is that it has been charged that they are corruptionists and grafters. He says that there is warrant in it because we have asked some witness—we have claimed and made the issue here that there is extravagance in that some professor while engaged as a teacher was making money somewhere else. No, Mr. President, that is not a charge or evidence of extravagance; that goes to a deeper and more far-reaching question than extravagance; that goes to the question of the conduct of a particular man engaged in teaching there. It has never been said that his salary of \$3,250 is extravagant. No witness has ever said that and no man has ever been asked a question tending to show that or even claiming that. Nobody has said that Dr. A. Caswell Ellis' salary of \$3,250 is too much or not enough; it has not even been suggested here. It has been suggested that while being paid out of the people's

money he ought to devote his time to it, but that is not a question of extravagance. May I say without making an improper statement that that is a question which affects the individual conduct of the gentleman mentioned only? It goes to that other vital question that affects the employment of every man, whether he is employed to pick cotton or teach in the University; the man who engages his service is entitled to receive it. This is not, as General Crane would indicate, a fishing expedition; this is a solemn trial before this High Court on charges made and the answer returned, on specific allegations laid and answer made thereto, and we are entitled, if I may say it—and I say it in the utmost deference and respect to the Chair and each member of this Court—we are entitled that they shall be compelled not to render an accounting to any constituency. This High Court is responsible to its conscience, its judgment, and its God, and to no other source of power. We are entitled that this Respondent be tried on the allegations as laid and not depart from them. I trust that the President will not misunderstand when I make the statement that this Respondent and each counsel of his have greeted with the utmost satisfaction and pleasure the fact that so good a lawyer as the President here presiding should pass upon these questions of the admissibility of the testimony. It is not a question, as General Crane says, about anybody's constituency passing on these facts or whether or not this University is run this way or that way. It is a question of what have they said? Shall they be held to the proof of those facts, or allowed to wander all over the face of the earth and take from this man the office to which the people elected him on a fishing expedition, drive him and his family into disgrace on a fishing expedition, or rather on the facts that are admissible on these allegations made here against him? That is all we ask, that they be confined to that. We have objected here, Mr. President, to the question here asked, which is if he has made any investigation as to the cost of universities elsewhere. They are made up from the reports, of course, of other institutions—made up without the value or virtue of cross examination or any investigation by this Respondent or anyone else in the making up of the report. We are venturing for from the alle-

gations made here, but upon the broad sea of speculation and guess work. We are going beyond any allegation and charge made against this Respondent. They are trying to prove something here covered by no allegation, justified by no pleading, warranted by no fact introduced or attempted to be introduced in this evidence yet, in order that they may have a dissertation upon facts here immaterial, but which will read good, and we object to it.

The Chair: Mr. Hanger, on this point: The veto message of the Governor has been offered. In that veto message there is a charge of extravagance. I agree with counsel, as far as the Chair is able to see, there isn't anything in the pleadings—

Mr. Hanger (Interrupting): That's it.

The Chair: —but the veto message having been offered, and the charge of extravagance having been made, I would like to hear counsel now on that.

Mr. Hanger: Just exactly as I tried to say just now, Mr. President, that they have offered that themselves; we haven't offered that, not a single question to a single witness yet throughout the course of this entire trial has there been from this Respondent on that question or on that issue; they have offered that, and in addition to that they have offered it without one single allegation on the subject or one single supplying allegation by the Respondent. I make that last statement because I understand, of course, that the Chair recognizes that if they had not made an allegation and we made one that would supply the defect—I saw that was in the mind of the Chair, but it is not in this pleading, either for the House of Representatives and its Managers or for this Respondent, and it becomes, I most respectfully insist, an immaterial inquiry and irrelevant testimony, incompetent testimony, for any purpose whatever.

Senator Bee: Mr. President.

The Chair: The Senator from Bexar.

Senator Bee: I want to detain the Chair just a minute with this suggestion: As I understand it, I think John Randolph in the Chase case first stated that an impeachment trial was in the nature of a grand inquest in behalf of the Nation. It therefore carries with it a semi-public character. If it is an inquest, it is an inquiry.

Now, here is what is in my mind in connection with these questions: Do the charges made contain the allegation that the Governor of this State has without cause vetoed the appropriation for the University of Texas and thus endangered its existence? Do the charges in substance, contain that allegation?

The Chair: In answer to the inquiry the Chair will read the only article that has to do with the veto; that is Article 15. The Chair will read the second paragraph of it: "The Governor has vetoed or attempted to veto the entire appropriation for the University of Texas, except the salary for one officer, thus in effect seeking to set aside that provision of the organic law requiring the support and maintenance of that institution, and to set aside the express will and judgment of the people of Texas. Though he had the legal power of veto, it was his sworn constitutional duty to again submit the question to the Legislature, which he has declared to the people of Texas that he would not do, and it was only when a session had been called for his impeachment and it was apparent that a quorum of the House would attend to consider that question, and as a last extremity, he consented to call a session of the Legislature and submitted the question of appropriation for the University of Texas."

Senator Bee: Is there, then, before the Court an issue raised by the charge or the pleadings as to whether the veto of the University appropriation by the Governor was a just exercise of his constitutional powers or an unjust exercise?

Mr. Hanger: Mr. Chairman, may I suggest that the offense charged in this allegation—in this article, I should say—just read by the President, the offense charged is his refusal to reconvene the Legislature and resubmit the University appropriation bill to the Legislature; that is the offense alleged here.

Senator Bee: Then, Mr. President, I make this suggestion: If that is the offense charged, this testimony would clearly not be admissible, but if the charge bears the inference and carries out the presumption and belief that his purpose was to act detrimentally to the interests of the University, in that event it would carry with it the reasons for so do-

ing: its extravagance, its corruption, its irregularity, or whatever else it might be. Under those circumstances this Court ought to have the proof to pass properly upon whether or not the Governor of this State has been guilty of conduct subjecting him to impeachment, unless that charge is true—in other words, if there has been extravagance, if there has been corruption, if there has been mismanagement, then the Governor of Texas would be correct in his position; if there have not been the things complained of, the Governor of Texas would not be correct and this Court would have a right to pass upon that question in determining whether he is subject to impeachment under the charges made.

The Chair: The Chair would like to hear the Senator from Bexar on this part of Article 15: "The Governor has vetoed or attempted to veto the entire appropriation for the University of Texas except the salary for one officer, thus in effect seeking to set aside that provision of the organic law requiring the support and maintenance of that institution and to set aside the express will and judgment of the people of Texas." Reference has been made in the former paragraph of the article to the Constitution.

Senator Bee: It requires the maintenance of a University of the first class.

The Chair: It says, "To set aside the express will and judgment of the people of Texas," is a veto without warrant.

General Crane: Mr. President, I would like to submit that the Chair is narrowing the question a little too close. This testimony is not limited to the veto only. We are trying to find out the cost of running the Texas University, and paragraph 18 to which I call your attention says: "The Governor of Texas has in public speech and published writing declared to the people of Texas that the faculty of the University are grafters and corruptionists." Now, may I ask—

Senator Bee: (Interrupting.) Will General Crane permit an interruption?

General Crane: Yes, sir.

Senator Bee: Is that one of the articles of impeachment?

General Crane: Yes, sir. Now,

if the faculty of the University are consciously extravagant—that is, if they are needlessly spending the money of the public—then they are grafters, I suppose. I take it that no man can spend the money of another unjustly without being properly called a grafter or corruptionist. Now, can't we show whether we are that or not—whether we are spending money needlessly or not? If we are grafters or corruptionists, how can the proof be made against us except by showing that we are needlessly spending the money of the people for services that are not rendered? Why, we are not limited to the veto alone. I think it is properly to be considered in that connection, but I would like to ask the Senator from Bexar how we can show that we are not grafters except by showing we are honestly spending the money.

Senator Lattimore: I would like to call attention to this further matter: As the Senator from Bexar and the Chair both know, you take both the plaintiff's petition and the defendant's answer in order to arrive at those matters that are issuable before a court. Now, when the respondent's counsel prepared his answer to Article 15 of the charges it is evident that the thing they had in mind at that time as being the charge was that he had vetoed the appropriation for the University, and the answer of the respondent to Article 15—

Senator Bailey (Interrupting.): Mr. President.

The Chair: The Senator from DeWitt.

Senator Bailey: A point of order. I hate to make it on the Senator from Tarrant, but we are jurors in trying this case, and if Senators have any questions to ask they should put them in writing.

Senator Bee: If the Senator from Tarrant will permit a response to the point of order, I do not understand—the rule is that if any Senator wishes to ask a question he must propound it in writing.

The Chair: If it is a question to the witness.

Senator Bee: There is not a precedent in impeachment trials that does not justify a member of the Senate in discussing the law questions involved of which he is a part of the Court. It is universal. We

heard it read here yesterday in the argument of Senator Bailey of Texas in support of a contention in the Senate of the United States, giving the history of impeachment trials from the impeachment of Warren Hastings to this day, allowing discussion of the law questions involved. I realize how susceptible a Senator may be to the charge that he is seeking to take sides one way or the other by the discussion of the question, but I acquit myself of any disposition to do anything at all except reach a correct conclusion in this case, and therefore I propound the question to the Court whether under the pleadings that we are proceeding under we are not entitled, if the charge is made, as I said a minute ago—

Senator Bailey: (Interrupting.) Mr. President, I insist on my point of order. If we are going to take this case away from counsel here and try it ourselves and break their line of thought and their argument and their progress and procedure we never will get through with the case.

Senator Bee: Now, Mr. President, discussing further the point of order, there was no interruption of counsel; counsel had finished their arguments on both sides. But it certainly can not be contended by the Senator from DeWitt or any other Senator that we are mere automatons so far as the questions to be decided by the Chair are concerned. We have a right to appeal from any decision of the Chair if we are not satisfied, and discuss it ad libitum.

The Chair: I would like to hear further discussion of the point of order from the Senator from DeWitt or any other Senator.

Senator Bailey: I have said about all I want to say. I have no disposition to shut off discussion in the matter by the Senator from Bexar, for whom I likewise have a high regard. But our time will come later and then we can debate these questions of law and vote upon them intelligently. If you are going to break in upon counsel here by piecemeal—and that was our object in presenting these rules to the Senate, which the Senator from Tarrant helped to prepare, to facilitate the trial—if we are to interrupt counsel and participate now in the trial of the case instead of contenting ourselves with

patiently hearing the matters presented by both sides, we never will get through here.

Senator Bee: Mr. President, may I ask the Senator from DeWitt this question?

Senator Bailey: Yes, sir.

Senator Bee: When are we going to present to the Chair our views as members of the Court upon the question that the President now has the decision of—after the President has decided it and when we are called on to vote guilty or not guilty?

Senator Bailey: I say to the Senator from Bexar that the rules provide that the Chair may rule on the question and we may acquiesce in it or we may appeal from it if not satisfied with the ruling of the Chair and a Senator may then present his views. If we keep on and every one here seeks to speak every time the spirit moves him we will be continually interrupting counsel, interrupting their line of thought and the progress of the trial. For that reason I make the point of order that we should go by the rules we have adopted and leave it to the learned counsel on both sides and to the Chair, and if an error has been committed by the Chair then we can appeal and give vent to some of this eloquence we have piled up here. (Laughter.)

Senator Bee: Now, Mr. President—

Senator Hudspeth: (Interrupting.) Now, I invoke the rule that a point of order must be ruled on immediately.

Senator Bee: I insist on being permitted to answer the Senator from DeWitt. I have never presented a more difficult position in my life and one in which I am farther removed from making any character of exhibition out of. I was merely trying to assist the Chair in his decision.

Senator Hudspeth: I insist upon it. I am willing to abide by the decision of the Chair. I have secured the requisite number of Senators, and ask that the point be decided.

The Chair: The request is that the point of order be immediately decided.

Senator Lattimore: I would like for the point of order to be distinctly stated. I don't know of any rule

that has been violated by the Senator from Bexar.

Senator Bee: If I did, I did not intend to.

The Chair: Will the Senator from Tarrant discuss the point of order?

Senator Lattimore: I will not unless invited to. I would like to know what the point of order is?

The Chair: The point of order raised by the Senator from DeWitt is that—

Senator Bailey (Interrupting): It is Rule 17.

The Chair: Rule 17 for the proceedings in this trial was being violated. The Chair will overrule the point of order. The Chair is not of the opinion that the rule is being violated, and the Chair would like to hear as briefly as may be from members of the Court stating their views on this particular question, because the Chair thinks it is a very important question and wants it decided correctly.

Senator Bee: The Senator from Bexar will not argue any more in view of the objection of the Senators.

Senator Hudspeth: I was not objecting to that, but raising the question that the point of order should be decided.

The Chair: Personally, the Chair is glad that the Senator from Bexar offered his views as to the question, because it is important that this question be decided correctly, and the Chair would now like to hear from any other Senator in the Chamber, either for or against the objection raised by counsel for the Respondent, but as briefly as may be done.

Senator Lattimore: I was merely going to call the attention of the Senator from Bexar at the time the suggestion was made as to the law on this question, that the Respondent in answer to the Fifteenth Article or Impeachment says that he vetoed this appropriation in the exercise of the discretion given him by the Constitution which puts in issue, Mr. President, all of the reasons that he might have given or might have had for the use of that veto. If he vetoed it for a satisfactory and sufficient reason, if he had given the reasons in his veto message, I take it that that very portion of his answer puts in issue every reason that he has given. In the Fifteenth Article it is charged that he has attempted to set aside the organic law of the land by the exercise of this veto power, but it is also set up in

Article 16 that in all sorts of ways he undertook to dominate the Board of Regents and take away from them their control over the affairs of the University. It is in testimony before the Court that it was in furtherance of that arbitrary exercise of power, that which is called in the Sixteenth Article the autocratic exercise of power—it is in evidence before the Court by a member of the Board of Regents that it was in the exercise or attempted exercise, if I may quote from the language of Mr. Brents, he said that the Respondent said, "Unless you do a certain thing I want done I will veto this whole appropriation"—I take it, Mr. President—I realize, as the Senator from Bexar said, the difficulty or arguing these matters without appearing to take a partisan view one way or the other, but it seems to me that the allegation of the Fifteenth and Sixteenth Articles and the answer to the Fifteenth and Sixteenth Articles puts in issue before the Court every reason given by the Governor for the exercise of what is denominated in the answer the discretionary powers given under the Constitution.

The Chair: Does any other member of the Court desire to be heard on the point—on the objection made? The Chair has very great doubt as to whether there is any pleading authorizing the testimony now offered. If there is any such pleading, in the opinion of the Chair it is in Article 15, in which the charge is made that in effect the Governor sought to set aside that provision of the organic law requiring the support and maintenance of that institution—that is the University—and to set aside the express will and judgment of the people of Texas, and the answer of the Respondent to Article 15. The answer is: "For answer to Article 15 this Respondent says that it is true that he vetoed the appropriation therein mentioned, but that he did so in the exercise of that discretion which is vested in him by the Constitution of this State." Now, in the opinion of the Chair there might be graft without extravagance; there might be corruption without extravagance; there might be extravagance without graft or corruption. So that the question of extravagance in the view of the Chair, is not raised by Article 18 of the impeachment charges. It is not necessarily raised.

General Crane: May I ask the Chair a question?

The Chair: Yes, sir.

General Crane: May not corruption include extravagance? And if a charge of corruption is made, would not proving extravagance establish that fact, if it was the right kind of extravagance?

The Chair: Certain kinds of extravagance might—

General Crane: Yes, sir.

The Chair: —but not all kinds of extravagance, in the opinion of the Chair. I have known of many cases of extravagance where there was no corruption—

General Crane: To be sure—that is so, I understand.

The Chair: So that the only question in the mind of the Chair is the question—and I think it is a very difficult one—whether the allegation here to the effect that the Governor sought to set aside that provision of the organic law quoted before in Article 15 requiring the support and maintenance of that institution and to set aside the express will and judgment of the people of Texas. Now, the Chair will rule that Dr. Vinson may be interrogated as to extravagance or not—not in comparison with other schools, but so far as the handling of the funds of this institution may relate.

General Crane: Now, Mr. President, I want to follow the ruling of the Chair, and for that reason I would like some—I don't want to violate the ruling of the Chair as made, but it will be very difficult to pursue the line of inquiry without making some comparison. For instance, we will want to know the salaries of the professors, the number of professors employed, the number of the teaching force, and the necessity and desirability of that number of professors, and necessarily the witness will be compelled to base his judgment upon what is done in similar institutions.

The Chair: The Chair don't think so. He could give his opinion as to the salaries without that.

General Crane: Well, we will try to follow that—we will try to follow that ruling in that way. And then there is another item in which specific complaint has been made that teachers have been absent when drawing salaries.

The Chair: Sure.

General Crane: We think we ought to be permitted to show that that is not extravagance—that that is not corruption.

The Chair: Well, that will be allowed. The comparative cost of education of students in this institution as compared with other institutions I don't think is admissible.

General Crane: Well, we haven't raised that. I think I can ask the questions so as to get what I want without violating the ruling of the Court.

Q. Doctor, what are the salaries paid by the University of Texas to its various professors, beginning with the highest and going down to the lowest?

A. The salaries for full professors in the University in no case, I think, are more than thirty-five hundred dollars a year; there may be one or two who are paid as much as thirty-six hundred.

Q. Now, those gentlemen to whom those salaries are paid, what are their attainments and education?

A. They are uniformly men who have taken the degree of Doctor of Philosophy in some first-class university, either in America or in Europe, and are required to have had a number of years of experience as teachers in their several departments.

Q. Now, I believe that the ordinary college course after going in from the high school is four years, isn't it?

A. Yes, sir.

Q. How many years of additional study are required to take the degree of Doctor of Philosophy?

A. Uniformly three years on the Bachelor of Arts degree.

Q. Yes, sir. Now, before they reach the salaries that you are paying them, how long would they be compelled to study?

A. There is no regular custom in our University with reference to that, but I should say before a man reaches that position he will have taught in the University of Texas approximately ten years beyond the acquirement of his degree of Doctor of Philosophy.

Q. Assuming, then, Doctor, that he is twenty-two years of age when he takes his degree of Bachelor of Arts, he would be twenty-five when he would take his degree of Doctor of Philosophy, and then approximately he would be thirty-five years of age before he could be a full professor receiving the salary that you have named?

A. As a general rule he is nearer

thirty when he gets his Doctor of Philosophy's degree.

Q. As a rule?

A. As a rule.

Q. And therefore nearer forty when he gets to be a full professor?

A. Yes, sir.

Q. Now, Doctor, state whether that is an extravagant salary or a reasonable salary or not?

A. I think myself—you are asking for an opinion?

Q. Certainly, sir?

A. I think, for the cost of everything that a man has to buy—

Mr. Hanger: (Interrupting). He can answer yes or no.

A. —it is extremely low.

General Crane: I think, Mr. President, he has a right to give his reasons whether high or low.

The Chair: I think he can state his reasons.

Mr. Hanger: Not unless it is questioned. We are not questioning the statement.

General Crane: Well, but the witness has a right to take care of his own opinions, and we have a right to ask the witness in support of his opinion whether he thinks it reasonable.

The Chair: The Chair thinks so, too, but the witness might not have a right to volunteer it.

General Crane: Well, if there is objection on account of volunteering, yes, that would be different.

Q. Well, now, the cost of living has not decreased any in the last few years, I believe, Doctor?

A. It has not.

Mr. Hanger: That is conceded.

General Crane: We don't want any concessions now. You required us to prove it.

Q. Now, is the expenditure of three thousand or thirty-five hundred dollars for a man with family, is that an extravagant state for him to live in if he spends it all?

A. It is not.

Q. How many professors have you—full professors—in the State University?

A. We have 202 teachers of all grades in the University.

Q. How many?

A. Two hundred and two teachers of all grades. Fifty full professors, nineteen associate professors, forty-two adjunct professors, seventy-four instructors, and seventeen

tutors, making a total of 202, with 108 student professors.

Q. Have you now the salaries of the professors, full professors—what is the aggregate of the fifty?

A. I could not give you that. I have not figured that out, the aggregate.

Q. Yes.

A. Of the fifty; their salaries—full professors' salaries in the University of Texas range all the way from about twenty-four hundred dollars to about thirty-six hundred dollars.

Q. To thirty-six hundred?

A. Yes, sir.

Q. Do you know what the average would be?

A. I think the average of full professors would be around three thousand dollars.

Q. Yes, sir. Now, state whether that is reasonable, in your judgment, or is reasonably low?

A. It is low.

Q. It is low, yes, sir. Now, the associate professors, what are their salaries and what are their qualifications and educational advantages, as a rule?

A. Their salaries are, of course, in the main lower than the salaries of full professors. If you will permit, I would like to say that there is no definite rule in the University of Texas with reference to these matters, but generally speaking the salary of an associate professor would be under three thousand dollars. We have associate professors who are getting approximately eighteen hundred to two thousand dollars and from there on up to about twenty-seven hundred and fifty to three thousand dollars.

Q. That is made to depend upon what?

A. That is made to depend upon his experience and his ability and upon the length of time, his tenure of office in the institution.

Q. Yes. Are the salaries made more or less by the number of years of service in the institution?

A. Generally more.

Q. All things being equal?

A. Yes, sir.

Q. Yes. Now, the adjunct professors—what is the difference between adjunct and associate professors?

A. Adjunct professors are a still lower grade of teacher than the as-

sociate professor, and the salary of adjunct professors will range around eighteen hundred dollars, perhaps in no case beyond twenty-five hundred.

Q. Well, state whether these salaries are reasonable or unreasonable? Now, what are the qualifications of adjunct professors and associate professors—the educational attainments, I mean, instead of qualifications

A. Generally speaking, the qualifications of adjunct and associate and full professors are the same. The difference lies in the expression of individual ability and in the length of time that a professor is beyond his doctor's degree, that is, the amount of experience in teaching he has had.

Q. Yes?

A. And also upon the amount of research work and publication work which he has been able to do.

Q. Now, they all, as I understand, in the main have their degrees of Doctor of Philosophy?

A. Yes, sir.

Q. And therefore they are near thirty years old and upwards?

A. Yes, sir.

Q. Now, yes. What is the next grade of teachers?

A. The next grade are instructors.

Q. The instructors, now, who are they?

A. Well, the instructors are the most inexperienced men in the faculty of those who have the educational qualifications which the others possess. It is, generally stating, the effort of the University to have in its faculty only men who have taken a sufficient amount of graduate work to warrant the institution's giving them the degree of Doctor of Philosophy or some other degree of equivalent character; but an instructor, generally instructors serve on one year tenure, they are men who are on trial until they prove themselves, and when they have so done, they are advanced if the University can afford it, to a higher position.

Q. Now, the student assistants—I believe that is the next one you have?

A. We have some tutors.

Q. Tutors?

A. Yes, sir.

Q. All right. Who are they, now?

A. Tutors, as a general rule, are

those who are doing graduate work, working towards the—in the graduate department of the University of Texas itself—they are used in various ways, to enable them to get experience as teachers while they are taking their doctors' degrees or other graduate degrees.

Q. Now, you mean to say that the tutors are the men who are doing—who have graduated from the University, have taken their A. B. degree?

A. Yes, sir.

Q. And then are working towards the—some higher degree?

A. The Master's degree.

Q. The Master's degree?

A. Sometimes work toward the Master's degree.

Q. Yes? Did you tell the Court, did you state to the Court whether or not—what are the salaries of instructors and teachers and tutors?

A. The salaries of instructors in the University of Texas run all the way from \$1200 to about \$1800.

Q. State whether or not you think that is reasonably low or not?

A. I think that is too low for them.

Q. Now, your tutors, what do they get?

A. The tutors get in no case over a thousand dollars a year—about \$900, \$800, \$600—I believe none lower than \$600.

Q. Well, now, state whether that is reasonably low?

A. I think so.

Q. Now, you have student assistants?

A. Yes, sir.

Q. Are they paid any salaries?

A. Yes, they are paid an average salary of \$174 apiece.

Q. Per annum?

A. Yes, sir.

Q. Now, who are they, Doctor?

A. They are just what their name indicates.

Q. They are students?

A. They are student assistants.

Q. Undergraduates?

A. Yes, sir. Sometimes graduate students are used as student assistants, and—but they do not with any regularity at all have anything to do with instruction. In the Law Department student assistants are quizmasters, and they act in that same capacity in the other schools in the University; they are used to correct theme papers and examina-

tion papers in those departments where the bulk of the papers is far beyond the limits of time and the physical ability of the professors in charge to get those papers and credits out there within the time in which the credits are demanded.

Q. Yes? Well, now, state whether that is advantageous to the student assistants?

A. It is extremely advantageous to the University, and to the student assistants.

Q. Yes. It enables the University to complete its work better?

A. Yes, sir.

Q. And the student to become more proficient?

A. Yes, sir.

Q. In the line of his study?

A. Yes, sir.

Q. Both? These student assistants, are they limited in the work, to the work with which they are entirely familiar?

A. Yes, sir, always.

Q. Classes which they have gone through?

A. Yes, sir. And they are chosen on the basis of the merit which they exhibited—which they have exhibited the previous year.

Q. The previous year?

A. Yes, sir.

Q. And then they are confined to the work of that previous year?

A. Yes—not to the work of that previous year, but to the work which they themselves have covered already.

Q. I know, the work they have covered through all their period?

A. Yes, sir.

Q. Yes? Now, Doctor, have you—what is your opinion as to the number of professors, the number of associate professors and adjunct professors, instructors and tutors and student assistants, have you too many or too few in the University of Texas?

A. We have too few in the University. According to the best evidence which I am able to get hold of, the ideal class in an institution like the University of Texas would contain from six to ten students—in other words, we would have from six to ten students to the teacher. In the University of Texas we have practically fourteen students to the teacher, to teachers of all grades.

Q. That is the general average?

A. Yes.

Q. You do not mean to say that there are that in every class?

A. Oh, no, sir.

Q. But that that is the general result?

A. Oh, there are some classes which have a hundred in them.

Q. Yes?

A. And taught by one man.

Q. Yes?

A. But I am speaking of the educational ideal and general average of the University.

Q. Well, now, what are the other expenses paid by the University, Doctor, besides the salary list, the salaries of the teachers, what other expenses do you incur?

A. We have the maintenance of our laboratories and the library, and the upkeep of all the grounds, and the maintenance of the general staff of employes and administrative officers, which an institution of this magnitude demands.

Q. How many employes of that kind have you?

A. We have all told at the Main University here at Austin, approximately 375 employes of all sorts.

Q. Does that include the professors?

A. That includes all the members of the faculty, and all of the force all told on salary lists.

Q. It had, then, 202—

A. 202 professors of all classes, actual instructors.

Q. That leaves about 153—

A. Of student assistants and employes.

Q. No, 173?

A. Yes, sir.

Q. Now, what is your opinion of the number of those employes, Doctor,—whether there are too many or too few?

A. I believe that we have about an adequate staff from that standpoint, at the University.

Q. What about the wages or salaries paid to those working people, are they paid too much, you think, or paid too little, or fairly compensated for their services?

A. I have already determined to recommend to the Board of Regents that the salaries of those employes, particularly the ones on the smaller wage list, should be increased; I think they are too small.

Q. You think they are too small?

A. Yes, sir.

Q. Now, Doctor, is there—do you know of any abuses in the University that exist that could possibly cause graft, do you know of any misuse of

money or funds by the University faculty or any of its members?

A. I do not.

Q. Do you know of any corruption among the members of the faculty of any kind or character?

A. I do not.

Q. In the sense in which that term is used: Do you know whether the faculty, or the members of the faculty, are men of integrity and honor and veracity, or whether they are thieves and liars?

A. So far as I know they are—they are men of integrity and honor and veracity.

Q. Yes? Do you know of any member of the faculty being disloyal to his government?

A. I do not.

Q. Do you know, on the contrary, of evidences of loyalty of the members of the faculty to the government?

A. We have had a number of such evidences of loyalty.

Q. Just mention some of them, please?

A. We have had a number of our men who were actually in government service this summer.

Q. How many, who by name that you can think of have been prominent in offering their services?

A. Why, Professor Potts in service in Washington, Professor Haines, Professor de Haas, Professor Yoakum, Professor Pittenger, Professor Sackett, Professor Wolfe, Miss Gearing—I have a complete list of those who are in the government service, I just recall these from memory.

Q. Yes? Now, are many of those working without salary from the government?

A. From the government?

Q. Yes?

A. I think most of them are being paid salaries for the work they are performing.

Q. Now, do you know of the student body, or of the faculty being taught loyalty and fidelity to the flag, or not?

A. They were while the University was in session.

Q. Do you know whether they responded to that teaching and have entered their services in the struggle now being waged?

A. They did in a most remarkable manner; there were more students, graduates of the University of Texas, in the Officers Training Camp at Leon Springs than there were from all the

other educational institutions combined in the State of Texas.

Q. Now, Doctor, there was some trouble made here about the University when you came in, about some of the practices, was there not some complaint by Governor Ferguson as to something that had been done there—some of the mileage books that had been bought and misapplied, as they thought, in a small way?

A. Yes, sir.

Q. Do you know about that?

A. Yes, sir.

Q. But before we get to that—upon suggestion of associate counsel, when you were elected President of the University did you seek an interview with Governor Ferguson with a view of co-operating with him on those lines and correcting any errors that might exist?

A. I did.

Q. Who went with you to see him, if anybody?

A. Major Littlefield.

Q. Did you call on him in his office?

A. Yes, sir.

Q. Just state, if you please, what occurred in that interview, and what was the result of it, generally?

A. I went to pay my respects to the Governor after having been elected President of the University and also to become acquainted with him and to talk the situation over. It was both in the nature of a social and a business call. And after we had chatted together a few moments, the Governor asked me what I intended to do with reference to the faculty of the University for the next session.

Q. Give the date of this interview, please?

A. About the 20th of June, 1916.

Q. Yes?

A. I stated to him that the faculty had already been arranged for by the Board of Regents at the April and May and June meetings, which had preceded the date of my visit to him.

Q. And preceded the date of your election, too, didn't it?

A. No.

Q. No?

A. The April meeting was the date of my election.

Q. Yes?

Q. But that was all done under

the budget which had been drawn up by my predecessor, Acting President Battle, and that only a few vacancies had been left for me to fill. The Governor then asked me if I intended to retain in the faculty certain members.

Q. Did he name them?

A. He named them.

Q. Who were they?

A. He named Messrs. Ellis and Lomax and Potts and a little bit later added the name of Dr. Mather, and Dr. Battle's name also was included—there were five altogether which came out in that interview; and he said to me that he had in the drawer of his desk the information with reference to those men, which he was prepared to furnish at the proper time. My recollection is that we discussed certainly one, and probably two, of the charges which were afterwards brought out at that meeting; one was the James incident, so-called, and the other the mileage book matter. Then a little later on in the conversation the Governor stated to me that he knew all about my election as President of the University, that I had not been elected by the Board of Regents but that I had been elected by the faculty, and that they had elected me not because they thought I was a big enough man for the job, but because they thought they could control me, and he hoped that I would show them that I was too big a man for them to control. I answered him that if that were true, every member of that faculty ought to be discharged, because they were the biggest liars in Texas, because of the fact that every one of them had said to me—either in person or over the telephone or by letter—after my election, that not until the time when I walked into the auditorium of the University with the Board of Regents did they know that the Board was even considering me for the position. I think those are the main lines of the conversation, General.

Q. Did you seek to have his co-operation in developing the University?

A. I so expressed myself to him; I was anxious to have it.

Q. Now, when you were inaugurated was any dinner given you by your friends, or did you give a dinner to your friends?

A. I gave the dinner.

Q. You gave the dinner?
 A. Yes, sir.
 Q. Did you invite the Governor?
 A. I did; the Governor was to be my guest of honor.
 Q. Did he acknowledge the invitation in any way whatever?
 A. He did not.
 Q. Did he come to the dinner?
 A. He did not.
 Q. Had you had any trouble with him up to that time?
 A. Nothing except that conversation.
 Q. That was all?
 A. Yes, sir.
 Q. Had you ever known Governor Ferguson before you met him on that day?
 A. I am not sure whether I had met him before or not; I think possibly I had.
 Q. Yes?
 A. Once.
 Q. Now, had you sought the position of President of the University, Doctor?
 A. Not at all, sir.
 Q. It was offered you by the Board of Regents?
 A. It was.
 Q. Did you discuss the character of the professors of the University with him at this conversation you had, against whom he was making these charges, as to whether they were good men or bad men?
 A. Only in a very general way; I think that most of that conversation, so far as the charges were concerned, was more in the nature of hypothetical cases.
 Q. Hypothetical cases?
 A. Yes, it didn't come down to concrete facts.
 Q. Did he ever present to you any charges against them?
 A. He did not.
 Q. Did you notify him to do so at any particular time?
 A. I did in September.
 Q. By letter?
 A. By letter.
 Q. Have you a copy of that letter there, of the original?
 A. I have the letter here as recorded in the investigation which was held by the Board of Regents.
 Q. Is that a copy of the letter—a true copy?
 A. It is an exact copy of the letter.
 General Crane: (To Senator

Hanger.) You raise no objection to this?

Senator Hanger: Oh, no, of course not. That is the letter of the Doctor to the Governor?

General Crane: Yes.

Senator Hanger: Not a bit of objection.

General Crane: We offer now a letter of Dr. Vinson in connection with his testimony, to Governor Ferguson, of date September 5, 1916. (Thereupon General Crane read into the record the letter referred to, which is in words and figures as follows):

"Austin, Texas, Sept. 5, 1917.

"Honorable James E. Ferguson, Governor of Texas, Austin, Texas.

"Dear Governor Ferguson: The next meeting of the Board of Regents of the University of Texas will be held on the fourth Tuesday of October, next, being the 24th. I have been endeavoring for some time past to get together the matters which must be laid before the Board at that time, including the complete itemized budget for the biennium next following the meeting of the Legislature. Some time during the month of June, in a conversation which I had with you in your office, you indicated to me that there were certain charges which you desired to make with reference to certain members of the present faculty of the University. In order that I may have some basis on which to work in this matter, I am taking this opportunity to ask you if you will not be kind enough to have the material in your possession upon this point in such shape that I may make immediate investigation and have time enough to ascertain the facts, so as to be able to make a suitable report to the Board of Regents. I am leaving for El Paso tonight and expect to return one week from today, after which time I shall call upon you in your office and go into this matter as thoroughly as you may desire.

"Very cordially yours,

"ROBERT E. VINSON,

"President."

Q. Now, this is the reply that he made to that, is it, Doctor?

A. Yes.

General Crane: To which Governor Ferguson replied as follows (reading letter referred to):

"Austin, September 9, 1916.

"Dr. Robert E. Vinson, President
State University, Austin, Texas.

"Dear Sir: Your favor of September 5th is received.

"In the first place, I emphatically deny that I ever indicated or intimated that I wanted to make any charges against anybody; and I told you then and there the names of the members of the faculty whom I thought objectionable, and I have not changed my mind.

"I think for the future it will be better for us to remain in our respective jurisdictions, and no good purpose can be subserved by any further relation between us.

"I shall deal with the Board of Regents, and you can do likewise; and you can rest assured that I shall promptly and surely meet the issue which it is apparent from your letter that you intend to force upon me.

"Yours truly,

"JAMES E. FERGUSON,
"Governor."

Q. Now, this next is your reply to that, I believe?

A. Yes.

General Crane: To which Dr. Vinson replied as follows:

(Thereupon General Crane read the letter referred to, as follows):

"Austin, Texas, Sept. 16, 1916.

"Honorable James E. Ferguson, Governor of Texas,

"Austin, Texas.

"Dear Sir:—

"I have before me your letter of September 9, just received on account of absence from the city on University business.

"I am somewhat surprised at the tone of your letter in reply to the request which I made on you in my letter of September 5, inasmuch as it seems to me you misunderstand the motives which prompted the writing of my letter referred to. Under the by-laws and rules and regulations of the University of Texas, adopted by the Board of Regents on November 11, 1912, in Article 11, Section 1, dealing with officers of administration of the University, I find the following statements with reference to the duties of the President of the University:

"All other officers, teachers, and employes shall be responsible to and under the direction of the President. . . . He shall be prepared to

give the Board information regarding the competence and loyalty of officers, teachers, and employes; shall hold all of them to the full discharge of their duties; and if, in his judgment, the necessity arise, shall initiate steps for a change of any of them."

"Acting under the obligation imposed upon me by the office which I have accepted, knowing from my previous conversation with you, and as it is indicated in your letter of September 9, that certain members of the faculty were objectionable to you, I considered it my duty to ascertain the grounds of your objection, in order that I might be able to learn the facts and to lay these facts, together with such recommendations as they might warrant, before the Board of Regents at its next regular meeting for such action as might seem wise to that body. I did not have then, nor have I now, any desire or intention to interfere in the least with any plans which you had, or may have, in your mind with reference to this institution; and I must also disclaim any intention of forcing an issue, and am at a loss to understand on what grounds you base your statement that such is my intention. As I have already stated to you in conversation, I accepted the Presidency of the University of Texas without having sought the office in any way; and the primary condition of such acceptance on my part was the distinct understanding that I had no obligations to individuals to discharge in the administration of the office and I was then prepared to administer the duties of this office for the best interests of the University, and of the University alone, and to do so without fear or favor. I still maintain the position set out in the above statement, am today as free of obligation as upon the date of my election, and am ready and willing, so far as my ability and information may permit, to perform the duties of this office as outlined above, and to co-operate with you in the fullest possible manner in any way which may seem to be the best interests of this institution and of the State of Texas. If there are members of the present faculty of the University of Texas who for any reason whatever are either incompetent or unworthy to fill the positions which they now occupy,

and you have in your possession information which bears upon this matter, the obligations imposed upon me by the rules and regulations of the Board of Regents require that I should procure it if possible.

"I trust that you understand that I have not raised an issue, and that no issue exists between us. I understand that you think certain members of the faculty should not be retained in this institution. The facts upon which you have based your conclusion have not come to my knowledge. My mind is entirely open in the matter, and, if reasons exist why the services of these members should be dispensed with, no person will be more interested than I in bringing about this result. Whether you deal with the Board of Regents direct, instead of through me, is a matter which, of course, you must determine. I desire only to say that I am ready and willing to perform all of the duties of my office and that I have no desire or intention to go beyond those duties or to trespass upon any other jurisdiction.

"I trust that you will consider carefully the statements which have been made in this letter and receive them in the spirit in which they are written, with the assurance that I desire only the best interests of this institution, which I am sure is also your desire.

"Very cordially yours,
"ROBERT E. VINSON,
"President."

Senator Hopkins: Mr. President. General Crane: Let me ask him one question, please?

Senator Hopkins: Yes, sir.

Q. Did you get a reply to that letter, Doctor?

A. I did not.

Senator Hopkins: Mr. President.

Senator Bee: Will the Senator yield just a minute?

Senator Hopkins: I yield.

Senator Bee: Mr. President, I desire a little information from the Chair. I was involved in an unfortunate incident a few minutes ago. Do I understand that on questions of law and on questions of the admissibility of testimony, the members of the Senate sitting as a Court are free to discuss the matter with the Chair just as freely as the Chair has to render an opinion?

The Chair: It was the ruling of

the Chair you were in order in discussing the question.

Senator Bee: I think, Mr. President, if my friend from DeWitt were to devote some of his brilliant intellect and training to assisting the Chair in deciding these questions he would add very much to this occasion.

The Chair: The Senator from Bexar is out of order.

Senator Bee: Yes, sir.

Senator Hopkins: I move that the Court of Impeachment now rise until 9:30 tomorrow morning.

Senator Clark: Make it 10 o'clock. I move that we rise until 10 o'clock.

Senator Hopkins: I accept the amendment.

The Chair: The Senator from Denton now moves that this Court of impeachment now rise until 10 o'clock tomorrow morning. Those in favor say "Aye," those opposed, "No." The motion prevails, and the Court rises until tomorrow morning at 10 o'clock.

In the Senate.

(President Pro Tem. Dean in the chair.)

Bills and Resolutions.

(By unanimous consent.)

By Senator Bailey:

S. B. No. 9, A bill to be entitled "An Act creating an express lien in favor of the State of Texas on all public free school land, University land, and the several asylums land for the use and benefit of the public free school fund, the University fund, and the several asylums fund for the purpose of securing the payment to said funds of all unpaid purchase money and interest thereon due and to become due upon all of said lands which have heretofore been sold and which may hereafter be sold so long as any portion of the principal or any portion of the interest thereon remains unpaid; also authorizing the Commissioner of the General Land Office on behalf of the State of Texas to transfer the indebtedness due to said funds and the lien held upon said land for the benefit of said funds to secure the payment of the principal and interest to such person, firm

or corporation as may make payment in full to the State for all sums due upon said land, and providing that the person, firm or corporation that may pay said indebtedness shall be subrogated to all the rights, liens and remedies held and enjoyed by the State, and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

Simple Resolution No. 13.

(By unanimous consent.)

Today being the anniversary of the birth of that scholar, soldier and patriot, Marquis de Lafayette, born September 6, 1757, in Auvergne, France, I move that when we adjourn today as a Senate that we do so in honor of his name and memory.

Lafayette said, "When first I heard of American Independence, my heart was enlisted." His devotion to the American cause, his loyalty to our Commander-in-Chief, his courage on many battlefields has endeared him to the American Nation.

Lafayette belonged to that regime of French aristocracy which thought that a gentleman should have no use for his hand except to hold a sword.

He came to us prepared for every sacrifice, happy to serve at any cost a cause that he considered his own and that of humanity.

Our hearts thrill as we follow this young warrior at Gloucester, Stony Point, Brandywine, Germantown, Monmouth and Valley Forge, standing side by side with Green, Lee De Kalb, Schuyler, Steuben, Wayne, Kosciusco and Washington, in opposition to Burgoyne, Cornwallis, Howe and Clinton.

Viewing existing international conditions, we feel it proper that this honor should be done our friend and benefactor of the trying days of 1775, and that today, while our soldiers are on French soil, and in French trenches that we renew our fidelity and friendship to our friends beyond the seas by adopting this motion.

SMITH.

The resolution was read and adopted.

Messages From the Governor.

Here Mr. S. Raymond Brooks appeared at the bar of the Senate with a message from the Governor.

The Chair directed the Secretary to read the message, which was as follows:

Governor's Office,

Austin, Texas, Sept. 6, 1917.

To the Thirty-fifth Legislature in third called session:

I beg to submit for the consideration of your honorable body the following subject:

Enactment of a law creating an express lien in favor of the State of Texas on all public free school land, University land, and the several asylums land for the use and benefit of the public free school fund, the University fund and the several asylums fund for the purpose of securing the payment to said funds of all unpaid purchase money and interest thereon due and to become due upon all of said lands which have heretofore been sold and which may hereafter be sold so long as any portion of the principal or any portion of the interest thereon remains unpaid; also authorizing the Commissioner of the General Land Office on behalf of the State of Texas to transfer the indebtedness due to said funds and the lien held upon said land for the benefit of said funds to secure the payment of the principal and interest to such person, firm or corporation as may make payment in full to the State for all sums due upon said land, and providing that the person, firm or corporation that may pay said indebtedness shall be subrogated to all the rights, liens and remedies held and enjoyed by the State.

Respectfully submitted,

W. P. HOBBY,

Acting Governor of Texas.

Message from the House.

Hall of the House of Representatives,
Austin, Texas, Sept. 6, 1917.

Hon. W. L. Dean, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 8, A bill to be entitled "An Act to amend Sections 1, 2 and

8 of Chapter 181, General Laws enacted at the Regular Session of the Thirty-fifth Legislature, establishing 'standard containers' and 'standard packs and grades' for fruits and vegetables and to add thereto Section 2a, and declaring an emergency."

H. B. No. 9, A bill to be entitled "An Act to amend Article 303, Revised Penal Code of Texas, 1911, providing limitations and exceptions upon and to the provisions of Article 302, Revised Penal Code, 1911, relating to selling, etc., on Sunday, so as to exempt from the provisions of Article 302, Penal Code 1911, the selling, etc., of gasoline, and declaring an emergency."

Respectfully,

ED. GRAHAM,

Acting Chief Clerk, House of Representatives.

Bills Read and Referred.

The Chair, President Pro Tem. Dean, referred, after their captions had been read, the following House bills:

H. B. No. 8, referred to the Committee on Agricultural Affairs.

H. B. No. 9, referred to the Committee on Criminal Jurisprudence.

Adjournment.

At 5:20 o'clock p. m. Senator Clark moved that the Senate adjourn until 9:30 o'clock tomorrow morning.

The motion prevailed.

APPENDIX.

Committee Reports.

Committee Room,
Austin, Texas, Sept. 6, 1917.

Hon. W. L. Dean, President of the Senate.

Sir: We, your Committee on Agriculture, to whom was referred

S. B. No. 3, A bill to be entitled "An Act to provide for the relief for the citizens of Texas suffering by reason of the severe drouth now existing, to make appropriation therefor, prescribing the manner in which it shall be handled and distributed, and declaring an emergency."

Have had the same under consideration and beg to report the same back to the Senate with the recommendation that it do pass.

WOODWARD, Chairman.

Enrolling Committee Reports.

Committee Room,
Austin, Texas, Sept. 6, 1917.

Hon. W. L. Dean, President Pro Tempore of the Senate.

Sir: Your Committee on Enrolled Bills beg leave to report that we have carefully compared Senate Bill No. 4, copy of which accompanies this report, and find the same correctly enrolled and have this day at 9:50 o'clock a. m. presented same to the Governor for his approval.

SMITH, Chairman.

By Caldwell.

S. B. No. 4.

An Act making appropriation of the sum of twenty-five thousand (\$25,000.00) dollars, or so much thereof as may be necessary to pay the contingent expenses of the Third Called Session of the Thirty-fifth Legislature of the State of Texas, convened August 31st, 1917, by the proclamation of the Acting Governor, providing how accounts may be approved, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That the sum of twenty-five thousand dollars (\$25,000.00), or so much thereof as may be necessary is hereby appropriated out of any money in the State Treasury not otherwise appropriated, to pay the contingent expenses of the Third Called Session of the Thirty-fifth Legislature of the State of Texas.

Sec. 2. The approval of the chairman of the Committee on Contingent Expenses of the Senate, approved by the President of the Senate, or of the chairman of the Committee on Contingent Expenses of the House of Representatives, approved by the Speaker of the House, shall be sufficient evidence to the Comptroller upon which he shall audit the claims and issue warrants, for the respective amounts, upon the State Treasury.

Sec. 3. Whereas, The Third Called Session of the Thirty-fifth Legislature is in session and public policy requires the appropriation as set forth in Section 1 of this Act, therefore, an im-

perative public necessity exists that the constitutional rule, requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended, and that this Act take effect from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, Sept. 6, 1917.

Hon. W. L. Dean, President Pro Tempore of the Senate.

Sir: Your Committee on Enrolled Bills, beg leave to report that we have carefully compared Senate Bill No. 5, copy of which accompanies this report, and find the same correctly enrolled, and have this day at 9:50 o'clock a. m. presented same to the Governor for his approval.

SMITH, Chairman.

By Caldwell.

S. B. No. 5.

An Act appropriating the sum of sixty-five thousand (\$65,000) dollars, or so much thereof as may be necessary, out of the general revenue, not otherwise appropriated, to pay the mileage and per diem of members and salaries and per diem of officers and employes of the Third Called Session of the Thirty-fifth Legislature of the State of Texas, providing how accounts may be approved, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That the sum of sixty-five thousand (\$65,000) dollars, or so much thereof as may be necessary, is hereby appropriated out of the general revenue not otherwise appropriated, to pay the mileage and per diem of members and the salaries and the per diem of officers and employes of the Third Called Session of the Thirty-fifth Legislature of the State of Texas.

Sec. 2. The certificate of the Secretary of the Senate, approved by the President thereof, or of the Chief Clerk of the House of Representatives, approved by the Speaker thereof, shall be sufficient evidence to the Comptroller upon which he shall audit the claims and issue the warrants for same upon the State Treasurer for the respective amounts.

Sec. 3. Whereas, the Third Called Session of the Thirty-fifth Legisla-

ture is now in session and public policy requires the appropriation as set forth in Section 1 thereof, therefore an emergency and an imperative public necessity exists that the constitutional rule requiring bills to be read on three several days in each house be suspended and the same is hereby suspended and that this Act take effect from and after its passage and it is so enacted.

Committee Room,
Austin, Texas, Sept. 6, 1917.

Hon. W. L. Dean, President Pro Tempore of the Senate.

Sir: Your Committee on Enrolled Bills beg leave to report that we have carefully compared Senate Concurrent Resolution No. 1, copy of which accompanies this report, and find the same correctly enrolled, and have this day at 9:50 o'clock a. m. presented same to the Governor for his approval.

SMITH, Chairman.

By Caldwell.

S. C. R. No. 1.

Resolved, That the joint rules of the Second Called Session of the Thirty-fifth Legislature be adopted as the Joint rules of the Third Called Session.

SIXTH DAY.

Senate Chamber,
Austin, Texas,
Friday, September 7, 1917.

The Senate met at 9:30 o'clock a. m. pursuant to adjournment, and was called to order by President Pro Tem. Dean.

The roll was called, a quorum being present, the following Senators answering to their names:

Alderdice.	Hudspeth.
Bailey.	Johnson of Hall.
Bee.	Johnston of Harris.
Buchanan of Bell.	Lattimore.
Buchanan of Scurry.	McCollum.
Caldwell.	McNealus.
Clark.	Page.
Collins.	Parr.
Dayton.	Robbins.
Dean.	Smith.
Decherd..	Strickland.
Floyd.	Suiter.
Hall.	Westbrook.
Harley.	Woodward.
Henderson.	